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# Appropriations Committee

Tuesday, April 1, 2014  
2:30 PM – 5:00 PM  
212 Knott Building

REVISED

Meeting Packet



# The Florida House of Representatives

## Appropriations Committee

**Will Weatherford**  
Speaker

**Seth McKeel**  
Chair

### AGENDA



Tuesday, April 1, 2014  
212 Knott Building  
2:30 PM – 5:00 PM

- I. Call to Order/Roll Call
- II. Opening Remarks by Chair McKeel
- III. **Consideration of the following bills:**
  - CS/HB 295** Employment after Retirement of School District Personnel by Government Operations Subcommittee, Porter
  - CS/CS/HB 343** Rental Car Surcharge by Economic Affairs Committee, Transportation & Highway Safety Subcommittee, Nuñez
  - HM 625** Balanced Federal Budget by Wood
  - CS/HB 657** Tax on Insurance Premiums by Finance & Tax Subcommittee, Davis, Hutson
  - CS/HB 875** Education Fiscal Accountability by K-12 Subcommittee, Diaz, M., Fresen
  - CS/HB 939** Bail Bond Premiums by Finance & Tax Subcommittee, Stewart
  - HB 943** Department of Revenue's Certified Audit Program by Raulerson
  - CS/HB 7069** Early Learning and Child Care Regulation by Education Appropriations Subcommittee, Education Committee, O'Toole
  - HB 7095** Professional Sports Facilities Incentive Application Process by Economic Affairs Committee, Patronis
- IV. Closing Remarks and Adjournment



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 295 Employment after Retirement of School District Personnel  
**SPONSOR(S):** Government Operations Subcommittee; Porter  
**TIED BILLS:** IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee	10 Y, 0 N, As CS	Harrington	Williamson
2) Appropriations Committee		Delaney 	Leznoff 

### SUMMARY ANALYSIS

Current law provides that instructional personnel may be awarded probationary contracts upon initial employment and may be awarded annual contracts thereafter; professional service contracts may not be issued to any instructional personnel hired on or after July 1, 2011. Additionally, the Florida Retirement System Act and the Teachers' Retirement System Act provide that retired instructional personnel who retired before July 1, 2010, may be rehired on an annual contractual basis. Although the retirement statute appears to provide for the issuance of annual contracts after retirement, in 2012, the Fifth District Court of Appeals held that the law was only applicable to the first year of reemployment and that retired instructional personnel rehired prior to July 1, 2011, may be awarded professional service contracts.

The bill clarifies that instructional personnel may be reemployed after retirement but only under a 1-year probationary contract. If the instructional personnel successfully complete the probationary contract, such employees may receive an annual contract; reemployed retired instructional personnel may not receive professional service contracts. The bill further provides legislative intent and clarification of applicable law for purposes of pending civil and administrative actions.

The bill does not appear to have a fiscal impact on state government; however, depending on the impact of the legislation on pending litigation, it could have a positive indeterminate fiscal impact on local school districts.

The bill takes effect upon becoming a law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

##### Student Success Act

In 2011, the Legislature passed the Student Success Act (act),<sup>1</sup> which requires, among other things, the use of performance evaluations to assess performance. The evaluation system for administrative and instructional personnel differentiates among four levels of performance: highly effective, effective, needs improvement,<sup>2</sup> or unsatisfactory.<sup>3</sup> The Commissioner of Education was required to consult with experts, instructional personnel, school administrators, and education stakeholders in developing the criteria for the performance levels.

Prior to 2011, instructional personnel with as little as three years of service could be granted a professional service contract, which provided for automatic renewal of the contract unless the superintendent charged the employee with unsatisfactory performance.<sup>4</sup> For instructional personnel hired on or after July 1, 2011, the act, in effect, provides that professional service contracts and tenure may no longer be given to any instructional personnel who do not currently have a professional service contract.

Specifically, the act provides that employees hired on or after July 1, 2011, must be awarded probationary contracts for a period of one year upon initial employment in a school district.<sup>5</sup> Probationary contract employees may be dismissed without cause or may resign without breach of contract.<sup>6</sup> The district may not award a probationary contract more than once to the same employee;<sup>7</sup> after the initial year, the school district may award an annual contract upon the successful completion of a probationary contract.<sup>8</sup> An annual contract is an employment contract for a period of no longer than one school year, which the district school board may choose to award or not award at the end of the contract term without cause.<sup>9</sup> Instructional personnel with an annual contract may be suspended or dismissed at any time during the term of the contract for just cause.<sup>10</sup>

In addition, the act ties the renewal of a professional service contract, for those employees who have a professional service contract, to the employee's performance evaluation; the professional service contract is no longer automatically renewed.<sup>11</sup> If an employee who holds a professional service contract is not performing his or her duties in a satisfactory manner, the act requires such an employee to receive notice and be placed on probation.<sup>12</sup> If the employee receives two consecutive annual performance evaluations of unsatisfactory, two annual performance evaluations of unsatisfactory within a three-year period, or three consecutive annual performance evaluations of needs improvement or a combination of needs improvement and unsatisfactory, the district may terminate or not renew the employee's contract.<sup>13</sup>

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<sup>1</sup> Chapter 2011-1, L.O.F.

<sup>2</sup> For instructional personnel in the first three years of employment, the evaluation may designate the performance as developing.

<sup>3</sup> Section 1012.34, F.S.

<sup>4</sup> See s. 1012.33(3)(e), F.S. (2010).

<sup>5</sup> Section 1012.335(2)(a), F.S.

<sup>6</sup> Section 1012.335(1)(c), F.S.

<sup>7</sup> *Id.*

<sup>8</sup> Section 1012.335(2)(a), F.S.

<sup>9</sup> Section 1012.335(1)(a), F.S.

<sup>10</sup> Section 1012.335(4), F.S.

<sup>11</sup> Section 1012.33(3)(b), F.S.

<sup>12</sup> Section 1012.34(4)(b), F.S.

<sup>13</sup> See ss. 1012.33 and 1012.34, F.S.

### Florida Retirement System

The Florida Retirement System (FRS) was established in 1970 when the Legislature consolidated the Teachers' Retirement System, the State and County Officers and Employees' Retirement System, and the Highway Patrol Pension Fund. In 1972, the Judicial Retirement System was consolidated into the pension plan and, in 2007, the Institute of Food and Agricultural Sciences Supplemental Retirement Program was consolidated under the Regular Class of the FRS as a closed group.<sup>14</sup> The FRS is a contributory system, with all members contributing 3 percent of their salaries.<sup>15</sup>

The FRS is governed by the Florida Retirement System Act.<sup>16</sup> The FRS, which is a multi-employer, contributory plan, provides retirement income benefits to 621,774 active members,<sup>17</sup> 334,682 retired members and beneficiaries, and 38,724 members of the Deferred Retirement Option Program (DROP).<sup>18</sup> It is the primary retirement plan for employees of state and county government agencies, district school boards, community colleges, and universities. The FRS also serves as the retirement plan for participating employees of the 186 cities and 267 independent hospitals and special districts that have elected to join the system.<sup>19</sup>

Members of the FRS have two primary plan options available for participation:

- The defined benefit plan, also known as the pension plan; and
- The defined contribution plan, also known as the investment plan.

The pension plan is administered by the secretary of the Department of Management Services through the Division of Retirement.<sup>20</sup> Investment management is handled by the State Board of Administration (SBA). The SBA is primarily responsible for administering the investment plan.<sup>21</sup> The SBA is comprised of the Governor as chair, the Chief Financial Officer, and the Attorney General.<sup>22</sup>

### Employment after Retirement

Section 121.091, F.S., governs the payment of benefits under the FRS. It requires a member of the FRS to terminate employment to begin receiving benefits, or begin participation in DROP to defer and accrue those benefits until termination from DROP. Termination occurs when a member ceases all employment relationships with his or her FRS employer.<sup>23</sup> Termination is void if any FRS-participating employer reemploys a member a specified period of time.<sup>24</sup>

Subsection 121.091(9), F.S., governs employment after retirement. It allows reemployment of FRS retirees by a non-FRS employer and authorizes those retirees to continue receiving retirement benefits.<sup>25</sup>

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<sup>14</sup> *The Florida Retirement System Annual Report*, July 1, 2011 – June 30, 2012, at 10. A copy of the report can be found online at: [http://www.dms.myflorida.com/workforce\\_operations/retirement/publications/annual\\_reports](http://www.dms.myflorida.com/workforce_operations/retirement/publications/annual_reports) (last visited February 21, 2014).

<sup>15</sup> Prior to 1975, members of the FRS were required to make employee contributions of either 4 percent for Regular Class employees or 6 percent for Special Risk Class members. Employees were again required to contribute to the system after July 1, 2011.

<sup>16</sup> Chapter 121, F.S.

<sup>17</sup> As of June 30, 2013, the FRS defined benefit plan, also known as the pension plan, had 514,436 members, and the defined contribution plan, also known as the investment plan, had 107,338 members. Email from staff of the Division of Retirement, Department of Management Services, February 4, 2014 (on file with the Government Operations Subcommittee).

<sup>18</sup> *Id.*

<sup>19</sup> Florida Retirement System Participating Employers for Plan Year 2013-14, prepared by the Department of Management Services, Division of Retirement, Revised January 2014, at 8. A copy of the document can be found online at:

[http://www.dms.myflorida.com/workforce\\_operations/retirement/publications](http://www.dms.myflorida.com/workforce_operations/retirement/publications) (last visited March 14, 2014).

<sup>20</sup> Section 121.025, F.S.

<sup>21</sup> Section 121.4501(8), F.S.

<sup>22</sup> Section 4, Art. IV, Fla. Const.

<sup>23</sup> Section 121.021(39)(a), F.S.

<sup>24</sup> *Id.*

<sup>25</sup> Section 121.091(9)(a), F.S.

An FRS retiree may be reemployed by an FRS employer provided certain requirements are met. A member who retired before July 1, 2010, may be reemployed by an FRS employer one calendar month after retiring or after the member's DROP termination date. If the retiree is reemployed during months two through 12 after retiring or terminating DROP, then the retiree may not receive her or his pension benefit until month 13. However, a retiree who retired before July 1, 2010, may be reemployed as instructional personnel on an annual contractual basis after one calendar month without having her or his retirement benefits disrupted.<sup>26</sup>

A member who retires on or after July 1, 2010, may not be reemployed by an FRS employer until month seven after retiring or after the member's DROP termination date. If the retiree is reemployed during months seven through 12 after retiring or terminating DROP, then the retiree may not receive her or his pension benefit until month 13.<sup>27</sup> The reemployment exception for retirees reemployed as instructional personnel no longer applies to members who retire on or after July 1, 2010.

### Teachers' Retirement System

The Teachers' Retirement System (TRS), which is closed to new members effective December 1, 1970, is governed by chapter 238, F.S. As of June 2013, there were 18 active members and eight DROP participants.<sup>28</sup> Similar reemployment provisions apply for instructional personnel who retire under the TRS.

### Legal Ambiguity for Reemployment of Instructional Personnel

In 2011, two retired reemployed instructional personnel brought suit in Orange County, Florida to determine whether the county was required to issue professional service contracts after the employees' successfully completed three years of employment.<sup>29</sup> The Orange County Public Schools argued that s. 121.091, F.S., required the instructional personnel to be rehired on an annual contractual basis. The issue in the case centered on whether the FRS act required instructional personnel to be reemployed with an annual contract for the rest of the member's career, or whether the FRS act only pertained to the initial year of reemployment and such member may ultimately be given a professional service contract under s. 1012.33, F.S., which provided for such a contract after three years of service.

The circuit court, applying the rules of statutory construction, found that the legislature intended for retired, rehired teachers to be rehired on the same terms as newly hired teachers; at that time, newly hired teachers were placed on an initial annual contract and after serving three years in the district, received a professional service contract. At the time of this lawsuit, professional service contracts were still provided for in law.

The Orange County School Board appealed the final judgment to the Fifth District Court of Appeal arguing that the trial court erred and that s. 121.091, F.S., precludes the school board from ever issuing a contract longer than an annual contract when employing retired instructional personnel.<sup>30</sup> The court, however, agreed with the lower court and found that the limitations in s. 121.091, F.S., only apply at the time of the initial rehire.

According to information supplied by the Orange County Public Schools, approximately 779 instructional personnel were rehired in Florida prior to July 1, 2011; 324 of the reemployed retired instructional personnel have been awarded professional service contracts.<sup>31</sup>

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<sup>26</sup> Section 121.091(9)(b), F.S.

<sup>27</sup> Section 121.091(9)(c), F.S.

<sup>28</sup> Telephone conversation with staff of the Division of Retirement, Department of Management Services, on March 14, 2014.

<sup>29</sup> A copy of the circuit court decision is on file with the Government Operations Subcommittee.

<sup>30</sup> *Orange County School Board v. Rachman and Schuman*, 87 So.3d 48 (Fla. 5th DCA 2012).

<sup>31</sup> Although 455 instructional personnel were rehired prior to 2011 and have not been issued professional service contracts, it is unclear if such employees qualified for professional service contracts prior to the 2011 changes to the act. Once such changes were made, a teacher not previously provided a professional service contract was ineligible to receive one. A class action lawsuit was filed in 2013 in Orange County; the plaintiffs allege that they were rehired retirees and qualified for professional service contracts prior to the 2011 legislation. A copy of the amended complaint is on file with the Government Operations Subcommittee.

## Effect of the Bill

The bill provides that instructional personnel hired after retirement may only be initially hired under a 1-year probationary contract. If the retiree successfully completes the probationary contract, such employee may receive an annual contract. The bill clarifies that reemployed retired instructional personnel may not receive professional service contracts.

The bill provides that the holding in *Orange County School Board v. Rachman and Shuman*<sup>32</sup> was contrary to legislative intent at the time the statutes were enacted and that retirees were never entitled to professional service contracts. The bill directs the judge in a civil action or administrative proceeding to rule against a classroom teacher on any claim or cause of action against the district school board, district superintendent, or district school board employee for not awarding such a teacher a professional service contract.

The bill provides that it does not void and is not intended to void or in any way impair any professional service contract inadvertently awarded by a district school board to a retiree before the effective date of the act.

### B. SECTION DIRECTORY:

Section 1. amends s. 1012.33, F.S., revising provisions relating to reemployment of retirees as instructional personnel on a contract basis; providing legislative intent and findings to clarify authorization to award contracts; providing requirements for a judge in certain civil actions or administrative proceedings.

Section 2. directs the Division of Law Revision and Information to replace the phrase "the effective date of this act" wherever it occurs in this act with such date.

Section 3. provides an effective date of upon becoming a law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

None. The bill does have a fiscal impact on the FRS. It merely clarifies employment practices, which are independent of the FRS.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

See FISCAL COMMENTS.

#### 2. Expenditures:

See FISCAL COMMENTS.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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<sup>32</sup> *Supra* at n. 30.



None.

**D. FISCAL COMMENTS:**

As a result of the bill, local school districts could experience a positive indeterminate fiscal impact associated with pending litigation.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

**2. Other:**

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 18, 2014, the Government Operations Subcommittee adopted a strike-all amendment and reported the bill favorably with committee substitute. The amendment:

- Removed from the bill changes related to the FRS and TRS; and
- Clarified that the bill does not void, and is not intended to void, any professional service contract already awarded by a district school board to a retiree.

1                                   A bill to be entitled  
 2       An act relating to employment after retirement of  
 3       school district personnel; amending s. 1012.33, F.S.;  
 4       revising provisions relating to reemployment of  
 5       retirees as instructional personnel on a contract  
 6       basis; providing legislative intent and findings to  
 7       clarify authorization to award contracts; providing  
 8       requirements for a judgment in certain civil actions  
 9       or administrative proceedings; providing a directive  
 10      to the Division of Law Revision and Information;  
 11      providing an effective date.

12  
 13   Be It Enacted by the Legislature of the State of Florida:

14  
 15           Section 1. Subsection (8) of section 1012.33, Florida  
 16   Statutes, is amended to read:

17           1012.33 Contracts with instructional staff, supervisors,  
 18   and school principals.—

19           (8) Notwithstanding any other provision of law, a district  
 20   school board may reemploy a retiree as instructional personnel,  
 21   as defined in s. 1012.01(2)(a), under a 1-year probationary  
 22   contract as defined in s. 1012.335(1). If the retiree  
 23   successfully completes the probationary contract, the district  
 24   school board may reemploy the retiree under an annual contract  
 25   as defined in s. 1012.335(1).

26        (a) Neither this subsection nor any other law enacted  
 27 before the effective date of this act allows, or was intended to  
 28 allow, a retiree to be awarded a professional service contract.  
 29 The Legislature finds that the holding in Orange County School  
 30 Board v. Rachman and Schuman, 87 So. 3d 48 (Fla. 5th DCA 2012),  
 31 which found that retirees under s. 121.091(9)(b)1.a. and this  
 32 subsection as enacted before the effective date of this act were  
 33 entitled to a professional service contract, was contrary to  
 34 legislative intent at the time the statutes were enacted. The  
 35 Legislature finds that retirees under s. 121.091(9), regardless  
 36 of the retiree's date of retirement, and this subsection are not  
 37 eligible, and were never eligible, to receive a professional  
 38 service contract under this section or any other law. In a civil  
 39 action or administrative proceeding, if a classroom teacher was  
 40 formerly retired and then reemployed by the district school  
 41 board pursuant to s. 121.091(9) and this section as enacted  
 42 before the effective date of this act, the Legislature intends,  
 43 in accordance with the findings expressed in this subsection,  
 44 that a judgment be entered against that classroom teacher on any  
 45 claim or cause of action against the district school board, the  
 46 district school superintendent, or a district school board  
 47 employee for not awarding that teacher a professional service  
 48 contract.

49        (b) This subsection does not void and is not intended to  
 50 void or in any way impair any professional service contract  
 51 inadvertently awarded by a district school board to a retiree

52 before the effective date of this act ~~Notwithstanding any other~~  
 53 ~~provision of law, a retired member may interrupt retirement and~~  
 54 ~~be reemployed in any public school. A member reemployed by the~~  
 55 ~~same district from which he or she retired may be employed on a~~  
 56 ~~probationary contractual basis as provided in subsection (1).~~

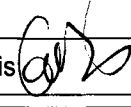
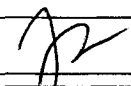
57 Section 2. The Division of Law Revision and Information is  
 58 directed to replace the phrase "the effective date of this act"  
 59 wherever it occurs in this act with such date.

60 Section 3. This act shall take effect upon becoming a law.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 343 Rental Car Surcharge  
**SPONSOR(S):** Economic Affairs Committee, Transportation & Highway Safety Subcommittee, Nuñez  
**TIED BILLS:** IDEN./SIM. **BILLS:** CS/SB 484

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee	10 Y, 2 N, As CS	Johnson	Miller
2) Finance & Tax Subcommittee	18 Y, 0 N	Flieger	Langston
3) Economic Affairs Committee	16 Y, 0 N, As CS	Johnson	Creamer
4) Appropriations Committee		Davis 	Leznoff 

### SUMMARY ANALYSIS

Section 212.0606(1), F.S., provides that a surcharge of \$2 per day, or part of a day, is imposed upon the lease or rental of a motor vehicle for hire and designed to carry less than nine passengers regardless of whether the motor vehicle is licensed in Florida. The surcharge applies to the first 30 days of the term of any lease or rental and is subject to all taxes imposed by ch. 212, F.S.

The bill creates s. 212.0606(2), F.S., providing that if a member of a car-sharing service uses a motor vehicle pursuant to an agreement with a car-sharing service for less than 24 hours, in lieu of the daily rental car surcharge, a surcharge of 50 cents per use is imposed.

The bill defines "car-sharing service" as a membership based organization or business or division thereof which requires the payment of an application or membership fee and provides member access to motor vehicles:

- Only at locations that are not staffed by car-sharing service personnel employed solely for the purpose of interacting with car-sharing service members;
- Twenty-four hours per day, seven days per week;
- Only through automated means, which may include, but are not limited to, smartphone applications or electronic membership cards;
- On hourly or shorter increments;
- Without a separate fee for refueling the motor vehicle;
- Without a separate fee for minimum financial responsibility liability insurance; and
- Owned or controlled by the car sharing service or its affiliates.

The bill provides that the lease, rental, or usage of a motor vehicle from an airport location is not eligible for the imposition of the surcharge for car-sharing services in lieu of the standard rental car surcharge.

The Revenue Estimating Conference met on March 21, 2014, and projected this bill would have an insignificant negative fiscal impact on General Revenue, a negative \$300,000 impact on state trust funds in Fiscal Year 2014-15, with a recurring negative \$600,000 impact on state trust funds. See the fiscal section for additional detail.

The bill has an effective date of January 1, 2015.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### **Rental Car Surcharge**

Section 212.0606(1), F.S., imposes a surcharge of \$2.00 per day or any part of a day upon the lease or rental of a motor vehicle licensed for hire and designed to carry less than nine passengers, regardless of whether the vehicle is licensed in Florida. The surcharge is included in the lease or rental price on which sales tax is computed and must be listed separately on the invoice. Businesses that collect rental car surcharge are required to report surcharge collections according to the county to which the surcharge was attributed.

The surcharge only applies to the first 30 days of the term of any lease or rental. If the lease is renewed, the first 30 days of the renewed lease is subject to the surcharge. If payment for the lease or rental of a motor vehicle is made in Florida, the surcharge applies. The surcharge is not imposed on leases or rentals to tax-exempt entities. Section 216.0606(4), F.S., exempts from payment of the surcharge a motor vehicle provided at no charge to a person whose motor vehicle is being repaired, adjusted, or serviced by the entity providing the replacement motor vehicle.

After deduction for administrative fees and the General Revenue Service Charge, the rental car surcharge is distributed as follows:

- 80 percent to the State Transportation Trust Fund (STTF);
- 15.75 percent to the Tourism Promotional Trust Fund; and
- 4.25 percent to the Florida International Trade and Promotion Trust Fund.

The proceeds of the rental car surcharge deposited into the STTF are allocated to each Department of Transportation (DOT) district for transportation projects, based on the amount of proceeds collected in the counties within each respective district.

##### **Car-Sharing Services**

Car-sharing is generally marketed as an alternative to conventional car rental or car ownership and exists in a number of forms.

“Traditional carsharing provides members access to a vehicle for short-term daily use. Automobiles owned or leased by a carsharing operator are distributed throughout a network; members access the vehicles with a reservation and are charged per time and often per mile....

Traditional carsharing is intended for short trips and as a supplement to public transit. Initial market entry in North America focused on the neighborhood carsharing model, characterized by a fleet of shared-use vehicles parked in designated areas throughout a neighborhood or municipality. In recent years, business models have advanced and diversified. Variations on the neighborhood model developed in North America include: business; college/university; government/institutional fleet; and public transit (carsharing provided at public transit stations or multi-modal nodes). Despite differences in target markets, these models share a similar organizational structure, capital ownership, and revenue stream.

The next generation of shared-use vehicle services, which provide access to a fleet of shared-use vehicles, incorporates new concepts, technologies, and operational methods. These models represent innovative solutions and notable advances. They include one-way carsharing and personal vehicle sharing. One-way carsharing, also known as “free-floating” carsharing, frees

users from the restriction of having to return a vehicle to the same location from which it was accessed. Instead, users leave vehicles parked at any spot within the organization's operating area, allowing for the possibility of one-way trips. The one-way model resembles more traditional forms of carsharing—except for the logistics of vehicle redistribution and the need for expanded vehicle parking.

Personal vehicle sharing ... represents a more distinct model due to differences in organizational structure, capital stock, and liability. Personal vehicle sharing involves short-term access to privately-owned vehicles, enabling a lower operating cost and a wider vehicle distribution. ..."<sup>1</sup>

While car sharing began at the local, grassroots level, car-sharing services are now also provided by conventional rental car companies, such as Avis, Enterprise, and Hertz.<sup>2</sup>

### **Current Practice Relating to Surcharge**

On September 17, 2012, the Department of Revenue (DOR) issued Technical Assistance Advisement 12A-022 in which the question presented to DOR was whether a member based car-sharing service is subject to the Florida rental car surcharge. The facts presented to DOR were as follows:

"Taxpayer [the car-sharing service] offers a member based car-sharing service with a fleet of vehicles available for use by registered members at any time of the day, seven days a week. A member can reserve a vehicle before use, or simply locate one and access it. Each use is labeled as a "trip" and can last up to four consecutive days. A unique feature of Taxpayer's car-sharing service is members may, and often do, use a car for a much shorter period of time than typical car rentals. According to Taxpayer, the typical trip lasts twenty-five to 40 minutes, costing between \$7 and \$10 before taxes. Members are invoiced daily for all trips that occur and Taxpayer adds the rental car surcharge and sales tax to this invoice."

First noting taxpayer's assertion that it is not engaged in the "traditional" rental of cars, DOR concluded that the taxpayer is clearly renting cars, is engaged in the rental of motor vehicles and, therefore, the rental car surcharge does apply. DOR further cited its rule, Fla. Admin. Code 12A-16.002(3)(b): "When the terms of a lease or rental agreement authorize the lessee to extend the lease or rental beyond the initial lease term without executing an additional lease or agreement and without any action on the part of the lessor, the extension period will not be considered a new lease or rental."

Highlighting the fact that the taxpayer's members may make multiple trips in one day without executing any additional agreement and without any action required of the taxpayer, and that members are charged for every trip within the same twenty-four hour period on a single daily invoice, DOR concluded that the rental car "surcharge is due from Taxpayer's members once a day, regardless of the number of trips taken by a member in a twenty-four hour period." Therefore, car-sharing services must pay the \$2.00 surcharge per day for each member who uses the car-sharing service that day.

It should be noted that use of car-sharing services is also subject to the state's sales and use tax.

### **Proposed Changes**

The bill creates s. 212.0606(2), F.S., providing that if a member of a car-sharing service uses a motor vehicle pursuant to an agreement with a car-sharing service for less than 24 hours, in lieu of the daily rental car surcharge<sup>3</sup> a surcharge of 50 cents per use is imposed. If a member of a car-sharing service uses the same motor vehicle for 24 consecutive hours or more, the usual surcharge of \$2 per day or any part of a day shall be imposed.

<sup>1</sup> Shaheen, Susan, Mark Mallery, and Karly Kingsley (2012). "Personal Vehicle Sharing Services in North America," *Research in Transportation Business & Management*, Vol. 3, pp.71-81.

<sup>2</sup> Kell, John, Jan. 2, 2013, "Avis to Buy Car-Sharing Service Zipcar," *The Wall Street Journal*.

<sup>3</sup> This surcharge is imposed pursuant to s. 212.0606(1), F.S.



The bill defines "car-sharing service" as a membership based organization or business or division thereof which requires the payment of an application or membership fee and provides member access to motor vehicles:

- Only at locations that are not staffed by car-sharing service personnel employed solely for the purpose of interacting with car-sharing service members;
- Twenty-four hours per day, seven days per week;
- Only through automated means, which may include, but are not limited to, smartphone applications or electronic membership cards;
- On hourly or shorter increments;
- Without a separate fee for refueling the motor vehicle;
- Without a separate fee for minimum financial responsibility liability insurance; and
- Owned or controlled by the car sharing service or its affiliates.

The bill provides that the lease, rental, or usage of a motor vehicle for a location owned, operated, or leased by or for the benefit of an airport or airport authority is not eligible for the imposition of the surcharge for car-sharing services in lieu of the standard rental car surcharge.

The bill has an effective date of January 1, 2015.

**B. SECTION DIRECTORY:**

Section 1 Amends s. 212.0606, F.S., relating to the rental car surcharge.

Section 2 Provides an effective date.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

The Revenue Estimating Conference met on March 21, 2014, and projected this bill would have an insignificant negative fiscal impact on General Revenue, a negative \$300,000 impact on state trust funds in Fiscal Year 2014-15, with a recurring negative \$600,000 impact on state trust funds. The following chart depicts these impacts by trust fund:

Trust Fund	Surcharge Distribution	Estimated Impacts	
		FY 2014-15	Recurring
State Transportation TF	80%	\$ (240,000)	\$ (480,000)
Tourism Promotional TF	15.75%	\$ (47,250)	\$ (94,500)
International Trade and Promotion TF	4.25%	\$ (12,750)	\$ (25,500)
Total		\$ (300,000)	\$ (600,000)

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Persons using car-sharing services for less than a 24-hour period will see a reduction in the rental car surcharge that they will pay.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill reduces the revenues from discretionary sales taxes levied by local governments; however, an exemption may apply as the negative impact to local governments is expected to be insignificant.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

DOR may need to revise its rules regarding the rental car surcharge<sup>4</sup> to conform to provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 4, 2015, the Transportation & Highway Safety Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment changed the effective date of the bill from July 1, 2014, to January 1, 2015.

On March 13, 2014, the Economic Affairs Committee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment changed the rental car surcharge from 8 cents per hour to 50 cents per use. The bill also conformed to the Senate language.

This analysis is written to the committee substitute as reported by the Economic Affairs Committee.

A bill to be entitled

An act relating to the rental car surcharge; amending s. 212.0606, F.S.; providing an alternative surcharge for use of a motor vehicle pursuant to an agreement with a car-sharing service for less than a specified number of consecutive hours; defining the term "car-sharing service"; providing applicability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 212.0606, Florida Statutes, is amended to read:

212.0606 Rental car surcharge.—

(1) Except as provided in subsection (2), a surcharge of \$2 ~~\$2.00~~ per day or any part of a day is imposed upon the lease or rental of a motor vehicle licensed for hire and designed to carry less than nine passengers regardless of whether the ~~such~~ motor vehicle is licensed in this state ~~Florida~~. The surcharge applies to only the first 30 days of the term of a any ~~any~~ lease or rental. The surcharge is subject to all applicable taxes imposed by this chapter.

(2) A member of a car-sharing service who uses a motor vehicle as described in subsection (1) for less than 24 hours pursuant to an agreement with the car-sharing service shall pay a surcharge of 50 cents per usage. A member of a car-sharing

27 service who uses the same motor vehicle for 24 hours or more  
 28 shall pay a surcharge of \$2 per day or any part of a day as  
 29 provided in subsection (1). For purposes of this subsection, the  
 30 term "car-sharing service" means a membership-based organization  
 31 or business, or division thereof, which requires the payment of  
 32 an application or membership fee and provides member access to  
 33 motor vehicles:

34 (a) Only at locations that are not staffed by car-sharing  
 35 service personnel employed solely for the purpose of interacting  
 36 with car-sharing service members;

37 (b) Twenty-four hours per day, 7 days per week;

38 (c) Only through automated means, including, but not  
 39 limited to, smartphone applications or electronic membership  
 40 cards;

41 (d) On an hourly basis or for a shorter increment of time;

42 (e) Without a separate fee for refueling the motor  
 43 vehicle;

44 (f) Without a separate fee for minimum financial  
 45 responsibility liability insurance; and

46 (g) Owned or controlled by the car-sharing service or its  
 47 affiliates.

48  
 49 The surcharge imposed under this subsection does not apply to  
 50 the lease, rental, or use of a motor vehicle from a location  
 51 owned, operated, or leased by or for the benefit of an airport  
 52 or airport authority.

53            (3) (a) (2) (a) Notwithstanding s. ~~the provisions of section~~  
 54 212.20, and less the costs of administration, 80 percent of the  
 55 proceeds of this surcharge shall be deposited in the State  
 56 Transportation Trust Fund, 15.75 percent of the proceeds of this  
 57 surcharge shall be deposited in the Tourism Promotional Trust  
 58 Fund created in s. 288.122, and 4.25 percent of the proceeds of  
 59 this surcharge shall be deposited in the Florida International  
 60 Trade and Promotion Trust Fund. For the purposes of this  
 61 subsection, "proceeds" of the surcharge means all funds  
 62 collected and received by the department under this section,  
 63 including interest and penalties on delinquent surcharges. The  
 64 department shall provide the Department of Transportation rental  
 65 car surcharge revenue information for the previous state fiscal  
 66 year by September 1 of each year.

67            (b) Notwithstanding any other provision of law, ~~in fiscal~~  
 68 ~~year 2007-2008 and each year thereafter,~~ the proceeds deposited  
 69 in the State Transportation Trust Fund shall be allocated on an  
 70 annual basis in the Department of Transportation's work program  
 71 to each department district, except the Turnpike District. The  
 72 amount allocated to ~~for~~ each district shall be based on ~~upon~~ the  
 73 amount of proceeds attributed to the counties within each  
 74 respective district.

75            (4) (3) (a) Except as provided in this section, the  
 76 department shall administer, collect, and enforce the surcharge  
 77 as provided in this chapter.

78            (a) (b) The department shall require dealers to report

79 | surcharge collections according to the county to which the  
 80 | surcharge was attributed. For purposes of this section, the  
 81 | surcharge shall be attributed to the county where the rental  
 82 | agreement was entered into.

83 |       (b)~~(c)~~ Dealers who collect the rental car surcharge shall  
 84 | report to the department all surcharge revenues attributed to  
 85 | the county where the rental agreement was entered into on a  
 86 | timely filed return for each required reporting period. The  
 87 | provisions of this chapter which apply to interest and penalties  
 88 | on delinquent taxes ~~shall~~ apply to the surcharge. The surcharge  
 89 | shall not be included in the calculation of estimated taxes  
 90 | pursuant to s. 212.11. The dealer's credit provided in s. 212.12  
 91 | does ~~shall~~ not apply to any amount collected under this section.


92 |       (5)~~(4)~~ The surcharge imposed by this section does not  
 93 | apply to a motor vehicle provided at no charge to a person whose  
 94 | motor vehicle is being repaired, adjusted, or serviced by the  
 95 | entity providing the replacement motor vehicle.

96 |       Section 2. This act shall take effect January 1, 2015.



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HM 625 Balanced Federal Budget  
**SPONSOR(S):** Wood and others  
**TIED BILLS:** IDEN./SIM. **BILLS:** SM 658

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee	13 Y, 3 N	Dougherty	Rojas
2) Appropriations Committee		Hawkins <i>lt</i>	Leznoff 

**SUMMARY ANALYSIS**

HM 625 serves as an application to Congress, pursuant to Article V of the U.S. Constitution, to call an Article V Convention of the states for the limited purpose of proposing a balanced budget amendment. This amendment would require that, in the absence of a national emergency, the total of all federal appropriations for any fiscal year would not exceed the total of all estimated federal revenues for that fiscal year, together with any related and appropriate fiscal restraints.

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law—they are mechanisms for formally petitioning the U.S. Congress to act on a particular subject.

This memorial does not have a fiscal impact.



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### Methods of Amending the U.S. Constitution

Article V of the Constitution authorizes two methods for amending the Constitution: by Congress or by a constitutional convention.

##### *Congressional Amendments*

A constitutional amendment may be proposed by a two-thirds majority of both chambers in the form of a joint resolution. After Congress proposes an amendment, the Archivist of the United States is responsible for administering the ratification process under the provisions of 1 U.S.C. 106b. Since the President does not have a constitutional role in the amendment process, the joint resolution does not go to the White House for signature or approval. The Office of the Federal Register (OFR) assembles an information package for the states which includes copies of the joint resolution and the statutory procedure for ratification under 1 U.S.C. 106b. The Archivist submits the proposed amendment to the states for their consideration by sending a letter of notification and the OFR informational material to each Governor. The Governors then formally submit the amendment to their state legislatures.

When a state ratifies a proposed amendment, it sends the state action to the Archivist. A proposed amendment becomes part of the Constitution as soon as it is ratified by three-fourths of the states (38). The OFR verifies the 38 ratification documents and drafts a formal proclamation for the Archivist to certify that the amendment is valid and has become part of the Constitution. This certification is published in the Federal Register and U.S. Statutes at Large and serves as official notice that the amendment process has been completed.

Since 1789, Congress has proposed 33 amendments by this method, 27 of which have been adopted.

##### *Constitutional Convention Amendments*

An amendment may be proposed by a constitutional convention called for by two-thirds of the state legislatures (34). If 34 states apply, Congress must call an Article V Convention to consider and propose amendments. These proposed amendments must also be ratified by three-fourths of the states (38). This method has never been implemented; therefore, there is no precedent for the exact process and application requirements. Some of the issues concerning this process include procedures within the state legislatures; the scope and conditions of applications for a convention; steps in submitting applications to Congress; and the role of the state governors in the process.

The records of the Philadelphia Convention of 1787 demonstrate that the founders intended to balance Congress's amendatory power by providing the convention method to empower the people to propose amendments. Article V identifies these methods as equal and requires the same ratification for all proposed amendments.

Although never used in full, this method has been a useful tool to provoke congressional action. The most successful incidence of using the threat of a constitutional convention to induce change was the movement for the direct election of Senators, which prodded Congress to propose the 17th Amendment.

## Spending Behavior of the Federal Government

The forecasted federal spending for fiscal year 2014 is \$3.778 trillion. Mandatory spending will account for more than 60 percent (\$2.3 trillion), supporting programs such as Social Security (\$860 billion), Medicare (\$524 billion), Medicaid (\$304 billion), income support,<sup>1</sup> military retirement, and other congressionally established programs.<sup>2</sup> Also included in fiscal year 2014's mandatory spending is the \$223 billion interest payment on the \$17 trillion national debt.<sup>3</sup>

The remaining \$1.48 trillion of the year's expenses will go towards discretionary spending as negotiated between Congress and the President. The Bipartisan Budget Act approves \$1.012 trillion in discretionary spending, including \$520.5 billion for Defense.<sup>4</sup> President Obama's budget proposal appropriates \$1.242 trillion to run the rest of the federal government, including \$618 billion for military expenditure.<sup>5</sup>

Before the recession in 2007, the Executive Office of Management and Budget (OMB) maintained federal spending at levels below 20 percent of GDP each year. Therefore, spending only grew as fast as the economy (about 3 percent per year). However, spending has been at higher levels since the recession, peaking at 24.3 percent of GDP in fiscal year 2012. Fiscal year 2014 spending is budgeted slightly lower at 22.4 percent of GDP. As the economy improves, the OMB forecasts that spending will drop to 21.2 percent of GDP by fiscal year 2018.<sup>6</sup>

Spending has increased since 2007 due to anti-recession stimulus spending; defense spending for Operation Enduring Freedom, Operation Iraqi Freedom, and Operation New Dawn; increased Social Security spending due to changing demographics; and more entitlement program spending as poverty rose.

### Balanced budget amendment

A balanced budget amendment is a constitutional prohibition on a government's spending exceeding its income. Most states have adopted balanced budget provisions, but the federal government has not. Such an amendment would make it unconstitutional for the federal government to run annual budget deficits and may solve the persistent problem of deficits and increasing debt.

Most amendment proposals include additional restrictive elements to be imposed on the federal government beyond maintaining a balanced budget. Some common examples include the following:

- a requirement that the President submit a balanced budget to the Congress;
- provisions that allow some flexibility in times of war or economic recession provided that a congressional supermajority support the waiver;
- a provision requiring a supermajority vote of both houses to raise the debt ceiling;
- a cap on total spending unless waived by a supermajority of both houses;
- a limit on the total level of revenues unless waived by a supermajority of both houses;

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<sup>1</sup> Food Stamps, Unemployment Compensation, Child Nutrition, Child Tax Credits, Supplemental Security for the blind and disabled, and Student Loans

<sup>2</sup> The amount for Mandatory programs is increasing thanks to the huge number of Baby Boomers who are reaching retirement age. The two major senior programs, Social Security and Medicare, went from 28% of the budget in FY 1988 to 37% of the budget in FY 2014. By FY 2023, the OMB projects that these two programs alone will rise to 40% of total spending.

<sup>3</sup> By 2023, interest payments on the national debt are expected to quadruple to \$763 billion, making it the third largest budget item, after Social Security (\$1.424 trillion) and Medicare (\$867 billion). See Office of Management and Budget, FY 2014 Budget, Table S-5, available at [http://useconomy.about.com/library/FY2014\\_budget.pdf](http://useconomy.about.com/library/FY2014_budget.pdf)

<sup>4</sup> See Office of Management and Budget, FY 2014 Budget, Table S-5, available at [http://useconomy.about.com/library/FY2014\\_budget.pdf](http://useconomy.about.com/library/FY2014_budget.pdf) and <http://politicalticker.blogs.cnn.com/2013/12/10/the-budget-deal-in-plain-english/>.

<sup>5</sup> Office of Management and Budget, FY 2014 Budget, Table S-5, available at [http://useconomy.about.com/library/FY2014\\_budget.pdf](http://useconomy.about.com/library/FY2014_budget.pdf).

<sup>6</sup> See [http://useconomy.about.com/od/fiscalpolicy/p/Budget\\_Spending.htm](http://useconomy.about.com/od/fiscalpolicy/p/Budget_Spending.htm)

- a provision to prevent the courts from enforcing the amendment through tax increases;
- a provision assigning congressional responsibility to enforce the amendment through legislation.<sup>7</sup>

Proponents argue that as the legislative and executive branches are unwilling or unable to address the debt crisis through normal legislative procedures, only a constitutional constraint will be strong enough to lessen lawmakers' fiscally irresponsible over-spending. A constitutional requirement would impose needed accountability for fiscal policy. A 2005 national survey quantifying public support for possible constitutional amendments found that 76 percent of respondents favored a balanced budget amendment.<sup>8</sup>

Opponents argue that such an amendment could limit the ability of future policymakers to use fiscal policy to counteract recessions or respond to national emergencies. They view lack of political will as the cause of our fiscal imbalances and so a procedural change will not adequately resolve the issue. Furthermore, they fear that the political pressure could lead to budget gimmicks that meet only the letter, not the spirit, of the law.

A balanced budget amendment converges on the federal government's financial bottom line, which is the result of complex accounting rules covering the multi-faceted legislative process and priorities. Policy differences and lack of political consensus often contribute to fiscal irresponsibility, overspending, and increasing debt. Although a constitutional balanced budget amendment may rein in our national deficits and debt, it cannot resolve the underlying political disparities that caused them.

### **Effect of Proposed Changes**

HM 625 serves as an application to Congress pursuant to Article V of the U.S. Constitution to call an Article V Convention of the states for the limited purpose of proposing a balanced budget amendment to the U.S. Constitution. This amendment would require that, in the absence of a national emergency, the total of all federal appropriations for any fiscal year would not exceed the total of all estimated federal revenues for that fiscal year, together with any related and appropriate fiscal restraints.

The memorial provides that its subject matter is to be considered the same as that of all presently outstanding balanced budget applications from other states. It is to be aggregated with those applications and tallied toward the required two-thirds of the states calling for a balanced budget amendment convention, but it should not be aggregated with any convention applications on any other subject.

Furthermore, the memorial constitutes a continuing application until at least two-thirds of the states apply for a balanced budget convention. HM 625 supersedes all previous Florida applications on the subject.

Copies of the memorial will be provided to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law—they are mechanisms for formally petitioning the U.S. Congress to act on a particular subject. This memorial does not have a fiscal impact.

### **B. SECTION DIRECTORY:**

Not applicable.

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<sup>7</sup> See <http://pgpf.org/Issues/Fiscal-Outlook/2012/06/062112-Balanced-Budget-Explainer>.

<sup>8</sup> Arthur H. Taylor, Fear of an Article V Convention, 20 *BYU J. PUB. L.* 101, 124-31 (2006).

## 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:

Not applicable.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

N/A

House Memorial

A memorial to the Congress of the United States,  
 applying to Congress to call a convention for the sole  
 purpose of proposing an amendment to the Constitution  
 of the United States that requires a balanced federal  
 budget.

WHEREAS, the Legislature of the State of Florida passed  
 Senate Concurrent Resolution 10 on April, 21, 2010, and

WHEREAS, Senate Concurrent Resolution 10 made application  
 to Congress to call a convention for proposing amendments  
 pursuant to Article V of the Constitution of the United States  
 for two purposes: to achieve and maintain a balanced federal  
 budget and control the ability of Congress and federal executive  
 agencies to dictate to states requirements for the expenditure  
 of federal funds, and

WHEREAS, the Legislature of the State of Florida desires to  
 conform to the single subject applications from Alabama, Alaska,  
 Arkansas, Colorado, Delaware, Indiana, Iowa, Kansas, Maryland,  
 Michigan, Mississippi, Missouri, Nebraska, Nevada, New  
 Hampshire, New Mexico, North Carolina, Ohio, Pennsylvania, and  
 Texas and limit its application to Congress for the sole purpose  
 of proposing an amendment to the Constitution of the United  
 States to require a balanced federal budget, NOW, THEREFORE,

26 Be It Resolved by the Legislature of the State of Florida:

27

28 (1) That the Legislature of the State of Florida hereby  
 29 applies to Congress, under the provisions of Article V of the  
 30 Constitution of the United States, to call a convention limited  
 31 to the purpose of proposing an amendment to the Constitution  
 32 requiring that, in the absence of a national emergency, the  
 33 total of all federal appropriations made by the Congress for any  
 34 fiscal year may not exceed the total of all estimated federal  
 35 revenues for that fiscal year, together with any related and  
 36 appropriate fiscal restraints.

37 (2) That this application is to be considered as covering  
 38 the same subject matter as the presently outstanding balanced  
 39 budget applications from other states and is to be aggregated  
 40 with the applications from those states for the purpose of  
 41 attaining the two-thirds number of states necessary to require  
 42 the calling of a convention, but shall not be aggregated with  
 43 any applications on any other subject calling for a  
 44 constitutional convention under Article V of the United States  
 45 Constitution.

46 (3) That this application constitutes a continuing  
 47 application in accordance with Article V until the legislatures  
 48 of at least two-thirds of the states have made applications on  
 49 the same subject and supersedes all previous applications by  
 50 this legislature on the same subject.

HM 625

2014

51           BE IT FURTHER RESOLVED that copies of this memorial be  
52    dispatched to the President of the United States, to the  
53    President of the United States Senate, to the Speaker of the  
54    United States House of Representatives, and to each member of  
55    the Florida delegation to the United States Congress.





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 657 Tax on Insurance Premiums  
**SPONSOR(S):** Finance & Tax and Davis  
**TIED BILLS:** IDEN./SIM. **BILLS:** CS/SB 310

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Subcommittee	12 Y, 6 N, As CS	Pewitt	Langston
2) Appropriations Committee		Hawkins <i>HW</i>	Leznoff <i>[Signature]</i>

### SUMMARY ANALYSIS

Florida imposes an annual tax on premiums collected by insurance companies doing business in the state. This tax applies to life, health, property and casualty, title insurance, and most other types of policies at a rate of 1.75%, with deductions allowed for reinsurance accepted, return premiums and assessments. It applies to self-insurance funds at a rate of 1.6%. It applies to annuities at a rate of 1%. It applies to wet marine and transportation insurance at a rate of 0.75% of gross underwriting profit, defined as net premiums minus net losses paid.

The bill provides that insurance premiums tax may not be imposed on any portion of a title insurance premium retained by a title insurance agent or agency. It also clarifies that this exemption does not impact the promulgation of title insurance rates by the Financial Services Commission.

The Revenue Estimating Conference met on February 17, 2014 and estimated that the bill would have a negative recurring impact on general revenues of \$5.4 million beginning in fiscal year 2014-2015.

The effective date of the bill is July 1, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### ***Insurance Premiums Tax***

Florida imposes an annual tax on premiums collected by insurance companies doing business in the state.<sup>1</sup> This tax applies to life, health, property and casualty, title insurance, and most other types of policies at a rate of 1.75%, with deductions allowed for reinsurance accepted, return premiums and assessments.<sup>2</sup> It applies to self-insurance funds at a rate of 1.6%.<sup>3</sup> It applies to annuities at a rate of 1%.<sup>4</sup> It applies to wet marine and transportation insurance at a rate of 0.75% of gross underwriting profit, defined as net premiums minus net losses paid.<sup>5</sup>

There are a number of credits allowed against insurance premiums tax liability. These include:

- 100% of corporate income tax paid pursuant to chapter 220, F.S.<sup>6</sup>
- 15% of salaries paid by the company to its Florida-based employees.<sup>7</sup>
- 50% of a community contribution made pursuant to the Community Contribution Tax Credit Program for enterprise zones.<sup>8</sup>
- 100% of donations made to eligible scholarship funding organizations pursuant to s. 1002.395.<sup>9</sup>

The sum of the credits granted for corporate income tax and employee salaries may not exceed 65% of the insurer's premium tax liability.<sup>10</sup>

##### ***Retaliatory Tax***

When another state or foreign country levies certain taxes or fees, including insurance premiums tax, on Florida insurers in excess of the taxes and fees levied by Florida on insurers from such other state or foreign country, a retaliatory tax is charged.<sup>11</sup> Companies from the other state or foreign country are taxed using the same tax and fee structure that a similar Florida insurer operating in such state or foreign country would be charged.

##### ***Title Insurance***

Title insurance companies insure owners of real property and others with an interest in real property against loss due to encumbrance, defective titles, invalidity, or adverse claim to title.<sup>12</sup> The Financial Services Commission, consisting of the Governor, Attorney General, Chief Financial Officer, and Commissioner of Agriculture and Consumer Services,<sup>13</sup> must adopt a rule setting the rates charged by title insurance companies and determining the minimum portion of those premiums retained by the title

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<sup>1</sup> Section 624.509, F.S.

<sup>2</sup> Section 624.509(1)(a), F.S.

<sup>3</sup> Section 624.4625(4), F.S.

<sup>4</sup> Section 624.509(1)(b), F.S.

<sup>5</sup> Section 624.510, F.S.

<sup>6</sup> Section 624.509(4), F.S.

<sup>7</sup> Section 624.509(5), F.S.

<sup>8</sup> Section 624.5105, F.S.

<sup>9</sup> Section 624.51055, F.S.

<sup>10</sup> Section 624.509(6)(a), F.S.

<sup>11</sup> Section 524.5091, F.S.

<sup>12</sup> Section 624.608, F.S.

<sup>13</sup> Section 20.121(3), F.S.

insurer.<sup>14</sup> This percentage varies depending on the total coverage of the policy, and ranges from 30% to 40%.<sup>15</sup> The portion not retained by the title insurer goes to the title insurance agent.

### **Proposed Changes**

The bill provides that insurance premiums tax may not be imposed on any portion of a title insurance premium retained by a title insurance agent or agency. It also clarifies that this exemption does not impact the promulgation of title insurance rates by the Financial Services Commission.

#### **B. SECTION DIRECTORY:**

Section 1. Amends s. 264.509, F.S., providing that insurance premiums tax may not be imposed on any portion of a title insurance premium retained by a title insurance agent or agency.

Section 2. Amends s. 627.7711, F.S., to remove language in order to clarify that the exemption provided in section 1 does not impact promulgation of title insurance rates.

Section 2. Provides an effective date.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

##### **1. Revenues:**

The Revenue Estimating Conference met on February 17, 2014 and estimated that the bill would have a negative recurring impact on general revenues of \$5.4 million beginning in fiscal year 2014-2015.

##### **2. Expenditures:**

None.

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

##### **1. Revenues:**

None.

##### **2. Expenditures:**

None.

#### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The bill would reduce the amount of insurance premiums tax paid by title insurance companies.

#### **D. FISCAL COMMENTS:**

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<sup>14</sup> Section 627.782, F.S.

<sup>15</sup> Rule 69O-186, F.A.C.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

Not Applicable. This bill does not appear to affect county or municipal governments.

##### **2. Other:**

#### **B. RULE-MAKING AUTHORITY:**

None.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 13, 2014, the Finance & Tax Subcommittee adopted an amendment to this bill. The amendment removed language that moved some provisions related to wet marine and transportation insurance to a different place in statute. It also repeals some language to make clear that the tax exemptions in the bill do not impact the promulgation of title insurance rates.

This analysis reflects the above amendment.

A bill to be entitled

An act relating to tax on insurance premiums; amending s. 624.509, F.S.; revising provisions relating to premium taxes paid by insurers; providing that the tax does not apply to any portion of the title insurance premium retained by a title insurance agent or agency; amending s. 627.7711, F.S.; conforming provisions to changes made by the act; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (8) of section 624.509, Florida Statutes, is amended to read:

624.509 Premium tax; rate and computation.—

(8) ~~From and after July 1, 1980,~~ The premium tax authorized by this section may ~~shall~~ not be imposed on:

(a) Any portion of the title insurance premium retained by a title insurance agent or agency; or

(b) upon Receipts of annuity premiums or considerations paid by holders in this state if the tax savings derived are credited to the annuity holders. Upon request by the Department of Revenue, an ~~any~~ insurer availing itself of this provision shall submit to the department evidence that ~~which~~ establishes that the tax savings derived have been credited to annuity holders. As used in this paragraph ~~subsection~~, the term "holders" includes ~~shall be deemed to include~~ employers

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27 contributing to an employee's pension, annuity, or profit-  
 28 sharing plan.

29 Section 2. Subsection (2) of section 627.7711, Florida  
 30 Statutes, is amended to read:

31 627.7711 Definitions.—As used in this part, the term:



32 (2) "Premium" means the charge, as specified by rule of  
 33 the commission, which ~~that~~ is made by a title insurer for a  
 34 title insurance policy, including the charge for performance of  
 35 primary title services by a title insurer or title insurance  
 36 agent or agency, and incurring the risks incident to such  
 37 policy, under the several classifications of title insurance  
 38 contracts and forms, ~~and upon which charge a premium tax is paid~~  
 39 ~~under s. 624.509~~. As used in this part or in any other law, with  
 40 respect to title insurance, the word "premium" does not include  
 41 a commission.

42 Section 3. This act shall take effect July 1, 2014.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 875 Education Fiscal Accountability  
**SPONSOR(S):** K-12 Subcommittee; Diaz, Jr. and others  
**TIED BILLS:** IDEN./SIM. BILLS: SB 1100

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-12 Subcommittee	10 Y, 2 N, As CS	Brink	Ahearn
2) Appropriations Committee		Heflin 	Leznoff 
3) Education Committee			

### SUMMARY ANALYSIS

The bill requires the Commissioner of Education to establish a return on investment (ROI) rating system by January 31, 2015, in order to evaluate the extent to which public school and school districts use financial resources in a cost-effective manner to improve student performance relative to fiscal peers. The ROI rating must place the most weight on indicators designed to measure how dollars are being used to facilitate increased student academic performance.

The bill defines the terms "return on investment rating," "fiscal peers," and "core operating expenditure" for the purpose of determining return on investment ratings for schools and districts.

In addition, the commissioner must determine fiscal peers for each public school and school district for the purpose of comparing ROI ratings among similar districts, public schools, and charter schools.

The bill creates the Schoolhouse Funding Pilot Program for the purpose of giving pilot school principals increased authority over school budgets and human capital decisions and determining whether the increased authority positively impacts the return on investment for the principals' schools. The bill requires the commissioner to select at least 15 middle schools and 15 high schools to participate as pilot schools and establishes criteria for their selection. In addition, participation by a selected school is subject to district school board approval. The bill requires the Auditor General to audit and report any noncompliance by a participating district.

The bill also establishes requirements for the pilot program relating to participation in state assessment and school accountability systems, educator certification, background screening, and personnel evaluation. The bill also provides requirements with respect to employment contracts, personnel decisions, and distribution of state and federal funding.

The fiscal impact of the bill is indeterminate. See Fiscal Impact on State Government.

The bill is effective upon becoming law.



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Return on Investment**

###### Present Situation

The K-20 performance accountability system maintained by the Department of Education (DOE) must measure student progress toward goals that include, among other things, quality efficient services as measured by evidence of return on investment.<sup>1</sup>

In addition, school report cards, including school report cards for alternative schools, must include, along with information regarding school improvement and performance, indicators of return on investment.

###### Effect of Proposed Changes

The bill requires the Commissioner of Education (commissioner) to establish a return on investment (ROI) rating system by January 31, 2015 which evaluates the extent to which public school and school districts use financial resources in a cost-effective manner to improve student performance relative to fiscal peers. The ROI rating must place the most weight on indicators designed to measure how dollars are being used to facilitate increased student academic performance.

The bill defines the term "return-on-investment rating," or "ROI rating," to mean a calculation developed by the commissioner which results in an annual ordinal rating for a public school and a school district that displays to the public the extent by which core operating expenditures have been used to positively impact student achievement. Ratings are assigned, as provided for under s. 1008.34(6), based on spending and student performance relative to a school's fiscal peers or a school district's fiscal peers.

The bill defines the additional following terms for the purpose of calculating a ROI rating:

- "Core operating expenditure" means the expenditure of general and special revenue funds, in accordance with the uniform chart of accounts included in the publication "Financial and Program Cost Accounting and Reporting for Florida Schools," in the functional categories of instruction and instructional support services and in the object categories of salaries, employee benefits, purchased services, and materials and supplies. The Commissioner of Education may classify other expenditures, funds, and functional and object categories as core operating expenditures.
- "Fiscal peers" means public schools and school districts that are of similar size and have similar average total cost-per-student funding in the Florida Education Finance Program, as determined by the commissioner. At a minimum, the commissioner shall take into consideration the following factors:
  - The Florida Price Level Index;
  - School size;
  - Student program cost factors; and
  - Geography.

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<sup>1</sup> Section 1008.31(c)4., F.S. A statutory statement of legislative intent provides that that the K-20 education performance accountability system be established as a single, unified accountability system with multiple components, including, but not limited to, measures of adequate yearly progress, individual student learning gains in public school, school grades, and return on investment.

Section 1008.31(1)(b), F.S.

In addition, the commissioner must determine fiscal peers for each public school and school district, as each ROI rating must be calculated relative to the performance of the fiscal peers of the school or school district. The bill requires the commissioner to assign the ROI ratings for all public schools and school districts in a sortable, easy-to-understand format that allows for comparison among districts, public schools, charter schools, and fiscal peers.

Beginning with the 2015-2016 school year, the commissioner must publish ratings on the Department of Education's (DOE) website when school report cards are published. Each school must provide a link to this information on its website and annually post a copy of its most recent ROI rating. Each school report card must include the ordinal ROI rating of the school and the school district.

The bill requires the commissioner to make every attempt to use aggregated student data that is already collected from public schools to develop the ROI rating. This includes, but is not limited to, data from:

- School report cards;
- Accountability measures, including the school accountability report;
- Profiles of school districts; and
- The state program cost reporting system.

## **The Schoolhouse Funding Pilot Program**

### Effect of Proposed Changes

The bill creates the Schoolhouse Funding Pilot Program for the purpose of giving pilot school principals increased authority over school budgets and human capital decisions and determining whether the increased authority positively impacts the return on investment for the principals' schools. The program is subject to annual appropriation as provided in the GAA. The bill defines the term "pilot school" to mean a public school that participates in the program.

The bill requires the commissioner to select a minimum of 15 high schools and 15 middle schools from throughout the state to participate in a two-year Schoolhouse Funding Pilot Program beginning with the 2015-2016 school year. To be eligible for selection, a middle or high school must:

- Have received a school grade of "C," "D," or "F" in the prior school year and have not received a school grade of "A" or "B" in the past five years; and
- Represent diverse student populations, including minority students, students receiving free or reduced-price lunches, and students with disabilities.

The DOE must measure the return on investment of each school upon its acceptance into the pilot program and annually thereafter.

The bill requires district school boards to approve a school's participation in the pilot program for a school in the district that is recommended by the commissioner. A district school board that refuses to allow a recommended school to participate must provide the commissioner with a detailed written explanation for the refusal.

The bill requires, subject to appropriation, principals, and if possible, assistant principals, of selected and approved schools to participate in a professional development program which focuses on improving student achievement; aligning standards, assessment, curriculum, and instruction; using data to drive instruction; and using best financial management practices to drive student achievement.

Under the pilot program, participating schools enjoy greater authority over managerial decisions in a manner analogous to charter schools, including decisions over allocation of specified funds. However,

the bill provides that state assessment, school accountability, educator certification, background screening, and personnel evaluation requirements still apply. The bill also provides requirements with respect to personnel decisions and distribution of state and federal funding. School districts that do not disburse state and federal funds to participating schools within 10 working days after receipt of the funding must pay the scheduled funding amount with interest at a rate of 1 percent per month calculated on a daily basis on the unpaid balance until a warrant for payment is issued.

In addition, the bill requires school districts to provide certain administrative and educational services to pilot schools, including transmittal of student performance data to each participating school in the same manner as provided to other schools in the district. A total administrative fee for the provision of such services must be calculated based upon up to 5 percent of the available funds for all students, except that if 75 percent or more of the students enrolled in the pilot school are exceptional students,<sup>2</sup> the 5 percent of those available funds must be calculated based on unweighted full-time equivalent students. A district may withhold up to a 5-percent administrative fee only for enrollment for 250 students or less. The bill requires the auditor general to audit and report any noncompliance by a participating district.

The bill charges the pilot school principal with selecting employees for the school and allows a pilot school to contract with its district for the services of district personnel. The bill provides that acceptance of employment at a pilot school constitutes leave from the district and that accrued seniority and benefits remain in place while the teacher is employed by the school. A school district may not require the resignation of an employee who desires to teach in a pilot school.

#### B. SECTION DIRECTORY:

Section 1. Amends s. 1008.02, F.S., defining the terms "core operating expenditure," "fiscal peers," and "return-on-investment rating."

Section 2. Amends s. 1008.34, F.S., requiring school report cards to include school and school district return-on-investment ratings; requiring the Commissioner of Education to establish a return-on-investment rating to evaluate the extent to which schools and school districts are using financial resources to improve student performance; requiring the commissioner to determine fiscal peers and assign and publish return-on-investment ratings.

Section 3. Amends s. 1011.69, F.S., creating the Schoolhouse Funding Pilot Program; defining terms; providing a procedure for a public school to participate in the pilot program; requiring the principal of a pilot school to participate in a professional development program; providing assessment and accountability requirements for a pilot school; providing funding for students enrolled in a pilot school and calculation therefor; providing for the receipt of federal funds and for the distribution of state and federal funds; requiring a school district to provide certain specified administrative and educational services to a pilot school; requiring a school district to provide student performance data to a pilot school in the same manner as it provides data to other public schools; providing for an administrative fee for the specified services; providing requirements relating to employees of a pilot school, including selection, contracting, certification, background screening, and employment history checks; requiring a pilot school to adopt policies that establish standards of ethical conduct for instructional personnel and school administrators.

Section 4. Amends s. 1003.621, F.S., conforming cross-references.

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<sup>2</sup> Under section 1003.01(3), F.S., an exceptional student is "any student who has been determined eligible for a special program in accordance with rules of the State Board of Education. The term includes students who are gifted and students with disabilities who have an intellectual disability; autism spectrum disorder; a speech impairment; a language impairment; an orthopedic impairment; an other health impairment; traumatic brain injury; a visual impairment; an emotional or behavioral disability; or a specific learning disability, including, but not limited to, dyslexia, dyscalculia, or developmental aphasia; students who are deaf or hard of hearing or dual sensory impaired; students who are hospitalized or homebound; children with developmental delays ages birth through 5 years, or children, ages birth through 2 years, with established conditions that are identified in State Board of Education rules."

Section 5. Amends s. 1011.64, F.S., conforming cross-references.

Section 6. Provides that the bill is effective upon becoming a law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Indeterminate. To the extent establishment of the return on investment rating and determination of fiscal peers requires development of additional data collection and reporting processes, there may be associated costs. However, because the bill requires the commissioner to make every attempt to use aggregated student data already collected by the DOE, any costs would likely be minimal.

### 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:

None.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 18, 2014, the K-12 Subcommittee reported the PCS to HB 875 favorably. The PCS increases the number of schools that may participate as a pilot school from no more than 14 to at least 15 middle schools and 15 high schools. The PCS also removes eligibility for elementary schools to participate as a pilot school, restricting participation to middle schools and high schools that have received a school grade of "C," "D," or "F" in each of the past five years and that represent diverse student populations.

The PCS removes administration of the pilot program from the DOE and provides for continued local operation of participating schools. In addition, the PCS provides that participation in the pilot program by a selected school is subject to district school board approval. The PCS requires district school boards that withhold approval for a selected school to provide the commissioner with a detailed written explanation for its refusal. The PCS also requires the Auditor General to audit and report any noncompliance by a participating district.

The PCS also makes various technical changes.

1 A bill to be entitled

2 An act relating to education fiscal accountability;  
3 amending s. 1008.02, F.S.; defining the terms "core  
4 operating expenditure," "fiscal peers," and "return-  
5 on-investment rating"; amending s. 1008.34, F.S.;  
6 requiring school report cards to include school and  
7 school district return-on-investment ratings;  
8 requiring the Commissioner of Education to establish a  
9 return-on-investment rating to evaluate the extent to  
10 which schools and school districts are using financial  
11 resources to improve student performance; requiring  
12 the commissioner to determine fiscal peers and assign  
13 and publish return-on-investment ratings; amending s.  
14 1011.69, F.S.; creating the Schoolhouse Funding Pilot  
15 Program; defining terms; providing a procedure for a  
16 public school to participate in the pilot program;  
17 requiring the principal of a pilot school to  
18 participate in a professional development program;  
19 providing assessment and accountability requirements  
20 for a pilot school; providing funding for students  
21 enrolled in a pilot school and calculation therefor;  
22 providing for the receipt of federal funds and for the  
23 distribution of state and federal funds; requiring a  
24 school district to provide certain specified  
25 administrative and educational services to a pilot  
26 school; requiring a school district to provide student

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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27 performance data to a pilot school in the same manner  
 28 as it provides data to other public schools; providing  
 29 for an administrative fee for the specified services;  
 30 providing requirements relating to employees of a  
 31 pilot school, including selection, contracting,  
 32 certification, background screening, and employment  
 33 history checks; requiring a pilot school to adopt  
 34 policies that establish standards of ethical conduct  
 35 for instructional personnel and school administrators;  
 36 amending ss. 1003.621 and 1011.64, F.S.; conforming  
 37 cross-references; providing an effective date.

38  
 39 Be It Enacted by the Legislature of the State of Florida:

40  
 41 Section 1. Section 1008.02, Florida Statutes, is amended  
 42 to read:

43 1008.02 Definitions.—As used in this chapter, the term:

44 (1) "Core operating expenditure" means the expenditure of  
 45 general and special revenue funds, in accordance with the  
 46 uniform chart of accounts included in the publication "Financial  
 47 and Program Cost Accounting and Reporting for Florida Schools,"  
 48 in the functional categories of instruction and instructional  
 49 support services and in the object categories of salaries,  
 50 employee benefits, purchased services, and materials and  
 51 supplies. The Commissioner of Education may classify other  
 52 expenditures, funds, and functional and object categories as

53 core operating expenditures.

54 ~~(2)~~<sup>(1)</sup> "Developmental education" means instruction through  
 55 which a high school graduate who applies for any college credit  
 56 program may attain the communication and computation skills  
 57 necessary to successfully complete college credit instruction.  
 58 Developmental education may be delivered through a variety of  
 59 accelerated and corequisite strategies and includes any of the  
 60 following:

61 (a) Modularized instruction that is customized and  
 62 targeted to address specific skills gaps.

63 (b) Compressed course structures that accelerate student  
 64 progression from developmental instruction to college-level  
 65 coursework.

66 (c) Contextualized developmental instruction that is  
 67 related to meta-majors.

68 (d) Corequisite developmental instruction or tutoring that  
 69 supplements credit instruction while a student is concurrently  
 70 enrolled in a credit-bearing course.

71 (3) "Fiscal peers" means public schools and school  
 72 districts that are of similar size and have similar average  
 73 total cost-per-student funding in the Florida Education Finance  
 74 Program, as determined by the commissioner. At a minimum, the  
 75 commissioner shall take into consideration the following  
 76 factors:

77 (a) The Florida Price Level Index.

78 (b) School size.



79            (c) Student program cost factors.

80            (d) Geography.

81            ~~(4)(2)~~ "Gateway course" means the first course that  
82 provides transferable, college-level credit allowing a student  
83 to progress in his or her program of study.

84            ~~(5)(3)~~ "Meta-major" means a collection of programs of  
85 study or academic discipline groupings that share common  
86 foundational skills.

87            (6) "Return-on-investment rating" or "ROI rating" means a  
88 calculation developed by the commissioner which results in an  
89 annual ordinal rating for a public school and a school district  
90 that displays to the public the extent by which core operating  
91 expenditures have been used to positively impact student  
92 achievement. Ratings are assigned, as provided for under s.  
93 1008.34(6), based on spending and student performance relative  
94 to a school's fiscal peers or a school district's fiscal peers.

95            Section 2. Subsection (5) of section 1008.34, Florida  
96 Statutes, is amended, subsections (6) through (8) are renumbered  
97 as subsections (7) through (9), respectively, and a new  
98 subsection (6) is added to that section, to read:

99            1008.34 School grading system; school report cards;  
100 district grade.—

101            (5) SCHOOL REPORT CARD.—The Department of Education shall  
102 annually develop, in collaboration with the school districts, a  
103 school report card to be provided by the school district to  
104 parents within the district. The report card must ~~shall~~ include

105 the school's grade, information regarding school improvement, an  
 106 explanation of school performance as evaluated by the federal  
 107 Elementary and Secondary Education Act (ESEA), 20 U.S.C. ss.  
 108 6301 et seq., and indicators of return on investment as provided  
 109 in subsection (6). Each school's report card shall be published  
 110 annually by the department on its website.

111 (6) RETURN-ON-INVESTMENT (ROI) RATING.-

112 (a) By January 31, 2015, the Commissioner of Education  
 113 shall establish a ROI rating system. The ROI rating evaluates  
 114 the extent to which public schools and school districts are  
 115 using their financial resources in a cost-effective manner to  
 116 improve student performance relative to their fiscal peers, as  
 117 defined in s. 1008.02(3). The ROI rating must place the most  
 118 weight on indicators designed to measure how dollars are being  
 119 used to facilitate increased student academic performance.  
 120 Student performance means student achievement and student  
 121 learning gains on statewide, standardized assessments as  
 122 provided for in this section.

123 (b) The commissioner shall determine fiscal peers, as  
 124 defined in s. 1008.02(3), for each public school and school  
 125 district. Each ROI rating shall be calculated relative to the  
 126 performance of the fiscal peers of the school or school  
 127 district.

128 (c) The commissioner shall assign the ordinal ROI ratings  
 129 for all public schools and school districts in a sortable, easy-  
 130 to-understand format that allows for comparisons among school

131 districts, public schools, public charter schools, and fiscal  
 132 peers. Beginning with the 2015-2016 school year, the  
 133 commissioner shall publish ratings on the Department of  
 134 Education's website when school report cards are made publicly  
 135 available. Each public school shall provide a link to this  
 136 information on its website and annually post a copy of its most  
 137 recent rating in a visible location.

138 (d) Beginning with the 2015-2016 school year, each  
 139 school's report card shall include the ordinal ROI rating of the  
 140 school and the school district.

141 (e) The commissioner shall make every attempt to use  
 142 aggregated student data that is already being collected from  
 143 public schools to develop the ROI rating, including, but not  
 144 limited to, data from:

- 145 1. School report cards issued under this section.
- 146 2. Accountability measures, including the annual school  
 147 accountability report required by ss. 1001.42(18) and 1008.345.
- 148 3. Profiles of school districts pursuant to ss. 1010.20  
 149 and 1011.60.
- 150 4. The state's program cost reporting system.

151 Section 3. Subsection (5) is added to section 1011.69,  
 152 Florida Statutes, to read:

153 1011.69 Equity in School-Level Funding Act.--

154 (5) Subject to annual appropriation in the General  
 155 Appropriations Act, the Schoolhouse Funding Pilot Program is  
 156 created for the purpose of giving principals increased authority

157 over school budgets and human capital decisions and then  
 158 determining whether the increased flexibility positively impacts  
 159 the return on investment at that school, as that term is defined  
 160 in s. 1008.02(6).

161 (a) Definitions.—As used in this subsection, the term:

162 1. "Pilot program" means the Schoolhouse Funding Pilot  
 163 Program.

164 2. "Pilot school" means a public school that participates  
 165 in the pilot program.

166 (b) Participating pilot schools.—

167 1. The Commissioner of Education shall select a minimum of  
 168 15 high schools and 15 middle schools from throughout the state  
 169 to participate in a 2-year Schoolhouse Funding Pilot Program,  
 170 beginning with the 2015-2016 school year. Participating pilot  
 171 schools shall be selected as follows:

172 a. The school received a school grade of "C," "D," or "F"  
 173 in the prior school year and has not received a school grade of  
 174 "A" or "B" in the past 5 years.

175 b. The school represents diverse student populations,  
 176 including minority students, students receiving free or reduced-  
 177 price lunches, and students with disabilities.

178 2. The district school board must approve a school's  
 179 participation in the pilot program for a school in the district  
 180 that is recommended by the commissioner. If the district school  
 181 board fails to approve a school for participation in the pilot  
 182 program, the district school board must provide the commissioner

183 with a detailed written explanation for its refusal.  
 184 (c) Professional development.—The principal, and if  
 185 possible the assistant principals, of a pilot school selected by  
 186 the commissioner and approved by the district school board must  
 187 participate in a professional development program, as provided  
 188 in the General Appropriations Act. The professional development  
 189 program must include leadership training that focuses on all of  
 190 the following:  
 191 1. Improving student achievement.  
 192 2. Aligning standards, assessment, curriculum, and  
 193 instruction.  
 194 3. Using data to drive instruction.  
 195 4. Using best financial management practices to drive  
 196 student achievement.  
 197 (d) Assessment and accountability.—  
 198 1. A pilot school must participate in the student  
 199 assessment program for public schools under s. 1008.22 and is  
 200 subject to the school grading system under s. 1008.34.  
 201 2. The department shall measure the return on investment  
 202 of each school upon its acceptance into the pilot program and  
 203 annually thereafter in accordance with s. 1008.34(6).  
 204 (e) Funding.—A student enrolled in a pilot school shall be  
 205 funded as if the student were in a basic program or a special  
 206 program at any other public school within the school district.  
 207 1. A pilot school shall report its student enrollment to  
 208 the district as required under s. 1011.62. The district shall

209 include each pilot school's enrollment in the district's report  
 210 of student enrollment. When submitting student record  
 211 information required by the Department of Education, a pilot  
 212 school shall comply with the department's guidelines for  
 213 electronic data formats. Each district shall accept electronic  
 214 data that complies with the department's electronic format.

215 2. The amount of funding for students enrolled in a pilot  
 216 school shall be the sum of the school district's operating funds  
 217 from the Florida Education Finance Program as provided in s.  
 218 1011.62 and the General Appropriations Act, including gross  
 219 state and local funds, discretionary lottery funds, and funds  
 220 from the school district's current operating discretionary  
 221 millage levy; divided by total funded weighted full-time  
 222 equivalent students in the school district; multiplied by the  
 223 weighted full-time equivalent students for the pilot school. A  
 224 pilot school whose students or programs meet the eligibility  
 225 criteria in law is entitled to its proportionate share of  
 226 categorical program funds included in the total funds made  
 227 available in the Florida Education Finance Program by the  
 228 Legislature, including transportation funds if applicable. Total  
 229 funding for each pilot school shall be recalculated during the  
 230 year to reflect the revised calculations under the Florida  
 231 Education Finance Program by the state and the actual weighted  
 232 full-time equivalent students reported by the pilot school  
 233 during the full-time equivalent student survey periods  
 234 designated by the Commissioner of Education.

235        3. If the district school board is providing programs or  
 236 services to students funded by federal funds, any eligible  
 237 student enrolled in a pilot school in the school district shall  
 238 be provided federal funds at the same level as is provided to  
 239 students in the schools operated by the district school board.  
 240 Pursuant to the federal Elementary and Secondary Education Act  
 241 (ESEA), 20 U.S.C. ss. 7221-7225g, each pilot school shall  
 242 receive all federal funding for which the school is otherwise  
 243 eligible, including Title I funding, no later than 5 months  
 244 after the pilot school begins the pilot program and within 5  
 245 months after any subsequent expansion of enrollment. Unless  
 246 otherwise mutually agreed to by the pilot school and the  
 247 district, and consistent with state and federal rules and  
 248 regulations governing the use and disbursement of federal funds,  
 249 the district shall reimburse the pilot school on a monthly basis  
 250 for all invoices submitted by the pilot school using federal  
 251 funds available to the district for the benefit of the pilot  
 252 school, the pilot school's students, and the pilot school's  
 253 students as public school students in the school district. Such  
 254 federal funds include, but are not limited to, Title I, Title  
 255 II, and Individuals with Disabilities Education Act (IDEA)  
 256 funds. To receive timely reimbursement for an invoice, the pilot  
 257 school must submit the invoice to the district at least 30 days  
 258 before the monthly date of reimbursement set by the district. In  
 259 order to be reimbursed, any expenditure made by the pilot school  
 260 must comply with all applicable state and federal rules and

261 regulations, including, but not limited to, the applicable  
 262 federal Office of Management and Budget circulars; the  
 263 regulations of the United States Department of Education; and  
 264 program-specific statutes, rules, and regulations. Such funds  
 265 may not be made available to the pilot school until a plan is  
 266 submitted to the district for approval of the use of the funds  
 267 in accordance with applicable federal requirements. The district  
 268 has 30 days to review and approve any plan submitted pursuant to  
 269 this subparagraph.

270 4. Each district school board shall make timely and  
 271 efficient payment and reimbursement to pilot schools and shall  
 272 process paperwork required to access special state and federal  
 273 funding for which they may be eligible. The district school  
 274 board may distribute funds to a pilot school for up to 3 months  
 275 based on the projected full-time equivalent student membership  
 276 of the pilot school. Thereafter, the results of full-time  
 277 equivalent student membership surveys shall be used in adjusting  
 278 the amount of funds distributed monthly to the pilot school for  
 279 the remainder of the fiscal year. The payment shall be issued no  
 280 later than 10 working days after the district school board  
 281 receives a distribution of state or federal funds. If a warrant  
 282 for payment is not issued within 10 working days after receipt  
 283 of funding by the district school board, the school district  
 284 shall pay to the pilot school, in addition to the amount of the  
 285 scheduled disbursement, interest at a rate of 1 percent per  
 286 month calculated on a daily basis on the unpaid balance from the



287 expiration of the 10 working days until such time as the warrant  
 288 is issued.

289 (f) Services.—

290 1. A school district shall provide certain administrative  
 291 and educational services to pilot schools. These services must  
 292 include contract management services; full-time equivalent and  
 293 data reporting services; exceptional student education  
 294 administrative services; services related to eligibility and  
 295 reporting duties required to ensure that school lunch services  
 296 under the federal lunch program, consistent with the needs of  
 297 the pilot school, are provided by the district at the request of  
 298 the pilot school, that any funds due to the pilot school under  
 299 the federal lunch program be paid to the pilot school if the  
 300 pilot school begins serving food under the federal lunch  
 301 program, and that the pilot school is paid at the same time and  
 302 in the same manner under the federal lunch program as other  
 303 public schools serviced by the district; test administration  
 304 services, including payment of the costs of state-required or  
 305 district-required student assessments; processing of teacher  
 306 certificate data services; and information services, including  
 307 equal access to student information systems that are used by  
 308 public schools in the district in which the pilot school is  
 309 located. Student performance data for each student in a pilot  
 310 school, including, but not limited to, statewide test scores,  
 311 standardized test scores, previous public school student report  
 312 cards, and student performance measures, shall be provided by

313 the district to a pilot school in the same manner as they are  
 314 provided to other public schools in the district.

315 2. A total administrative fee for the provision of such  
 316 services shall be calculated based upon up to 5 percent of the  
 317 available funds under paragraph (e) for all students, except  
 318 that if 75 percent or more of the students enrolled in the pilot  
 319 school are exceptional students as defined in s. 1003.01(3), the  
 320 5 percent of those available funds shall be calculated based on  
 321 unweighted full-time equivalent students. However, a district  
 322 may withhold up to a 5-percent administrative fee only for  
 323 enrollment for 250 students or less. Pursuant to its authority  
 324 under s. 11.45, the Auditor General shall audit and report any  
 325 noncompliance by a participating district.

326 (g) Employees of pilot schools.—

327 1. A pilot school principal shall select the employees of  
 328 the pilot school. A pilot school may contract with its school  
 329 district for the services of personnel who are employed by the  
 330 district.

331 2. Instructional personnel at a pilot school may choose to  
 332 be part of a professional group that subcontracts with the  
 333 district to operate an instructional program under the auspices  
 334 of a partnership or cooperative that the instructional personnel  
 335 collectively own. Under this arrangement, such personnel are not  
 336 considered public employees for purposes of contract  
 337 negotiations or for purposes of the Florida Retirement System.

338 3. An employee of a school district may take leave to

339 accept employment in a pilot school upon the approval of the  
 340 district school board. While employed by the pilot school and on  
 341 leave that is approved by the district school board, the  
 342 employee may retain seniority accrued in that district and may  
 343 continue to be covered by the benefit programs of that district  
 344 if the pilot school and the district school board agree to this  
 345 arrangement and its financing. A district may not require the  
 346 resignation of an employee who desires to teach in a pilot  
 347 school. This subparagraph does not prohibit a district school  
 348 board from approving alternative leave arrangements consistent  
 349 with chapter 1012.

350 4. A teacher who is employed by or under contract to a  
 351 pilot school must be certified as required under chapter 1012. A  
 352 pilot school may employ or contract with skilled selected  
 353 noncertified personnel to provide instructional services or to  
 354 assist instructional staff members as education  
 355 paraprofessionals in the same manner as provided under chapter  
 356 1012 and as provided by State Board of Education rule. A pilot  
 357 school may not knowingly employ an individual to provide  
 358 instructional services or to serve as an education  
 359 paraprofessional if the individual's certification or licensure  
 360 as an educator is suspended or revoked by this state or any  
 361 other state. A pilot school may not knowingly employ an  
 362 individual who has resigned from a school district in lieu of  
 363 disciplinary action with respect to child welfare or safety or  
 364 who has been dismissed for just cause by any school district

365 with respect to child welfare or safety. The qualifications of  
 366 teachers shall be disclosed to parents.

367 5.a. A pilot school shall employ or contract with  
 368 employees who have undergone background screening as provided in  
 369 s. 1012.32.

370 b. A pilot school shall disqualify instructional personnel  
 371 and school administrators, as defined in s. 1012.01, from  
 372 employment in any position that requires direct contact with  
 373 students if the personnel or administrators are ineligible for  
 374 such employment under s. 1012.315.

375 c. A pilot school shall adopt policies establishing  
 376 standards of ethical conduct for instructional personnel and  
 377 school administrators. The policies must require all  
 378 instructional personnel and school administrators, as defined in  
 379 s. 1012.01, to complete training on the standards; establish the  
 380 duty of instructional personnel and school administrators to  
 381 report alleged misconduct by other instructional personnel or  
 382 school administrators that affects the health, safety, or  
 383 welfare of a student and procedures for such reporting; and  
 384 include an explanation of the liability protections provided  
 385 under ss. 39.203 and 768.095.

386 d. A pilot school or an employee of a pilot school may not  
 387 enter into a confidentiality agreement regarding terminated or  
 388 dismissed instructional personnel or school administrators, or  
 389 personnel or administrators who resign in lieu of termination,  
 390 based in whole or in part on misconduct that affects the health,

391 safety, or welfare of a student and may not provide  
 392 instructional personnel or school administrators with employment  
 393 references or discuss such persons' performance with prospective  
 394 employers in another educational setting without disclosing such  
 395 misconduct. Any part of an agreement or contract that has the  
 396 purpose or effect of concealing misconduct by instructional  
 397 personnel or school administrators which affects the health,  
 398 safety, or welfare of a student is void, is contrary to public  
 399 policy, and may not be enforced.

400 e. Before employing instructional personnel or school  
 401 administrators in any position that requires direct contact with  
 402 students, a pilot school must conduct employment history checks  
 403 of each such person's previous employers, screen such person  
 404 using the educator screening tools described in s. 1001.10(5),  
 405 and document the findings. If unable to contact such person's  
 406 previous employer, the pilot school must document efforts to  
 407 contact the employer.

408 Section 4. Paragraphs (a) and (d) of subsection (1) of  
 409 section 1003.621, Florida Statutes, are amended to read:

410 1003.621 Academically high-performing school districts.—It  
 411 is the intent of the Legislature to recognize and reward school  
 412 districts that demonstrate the ability to consistently maintain  
 413 or improve their high-performing status. The purpose of this  
 414 section is to provide high-performing school districts with  
 415 flexibility in meeting the specific requirements in statute and  
 416 rules of the State Board of Education.

417 (1) ACADEMICALLY HIGH-PERFORMING SCHOOL DISTRICT.—  
 418 (a) A school district is an academically high-performing  
 419 school district if it meets the following criteria:  
 420 1.a. ~~Beginning with the 2004-2005 school year,~~ Earns a  
 421 grade of "A" under s. 1008.34(8) ~~1008.34(7)~~ for 2 consecutive  
 422 years; and  
 423 b. Has no district-operated school that earns a grade of  
 424 "F" under s. 1008.34;  
 425 2. Complies with all class size requirements in s. 1, Art.  
 426 IX of the State Constitution and s. 1003.03; and  
 427 3. Has no material weaknesses or instances of material  
 428 noncompliance noted in the annual financial audit conducted  
 429 pursuant to s. 218.39.  
 430 (d) In order to maintain the designation as an  
 431 academically high-performing school district pursuant to this  
 432 section, a school district must meet the following requirements:  
 433 1. Comply with the provisions of subparagraphs (a)2. and  
 434 3.; and  
 435 2. Earn a grade of "A" under s. 1008.34(8) ~~1008.34(7)~~ for  
 436 2 years within a 3-year period.  
 437  
 438 However, a district in which a district-operated school earns a  
 439 grade of "F" under s. 1008.34 during the 3-year period may not  
 440 continue to be designated as an academically high-performing  
 441 school district during the remainder of that 3-year period. The  
 442 district must meet the criteria in paragraph (a) in order to be

443 redesignated as an academically high-performing school district.

444 Section 5. Paragraph (a) of subsection (2) of section  
 445 1011.64, Florida Statutes, is amended to read:

446 1011.64 School district minimum classroom expenditure  
 447 requirements.—

448 (2) For the purpose of implementing the provisions of this  
 449 section, the Legislature shall prescribe minimum academic  
 450 performance standards and minimum classroom expenditure  
 451 requirements for districts not meeting such minimum academic  
 452 performance standards in the General Appropriations Act.

453 (a) Minimum academic performance standards may be based  
 454 on, but are not limited to, district grades determined pursuant  
 455 to s. 1008.34(8) ~~1008.34(7)~~.

456 Section 6. This act shall take effect upon becoming a law.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 875 (2014)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER \_\_\_\_\_

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1 Committee/Subcommittee hearing bill: Appropriations Committee  
2 Representative Fresen offered the following:

3  
4 **Amendment (with title amendment)**

5 Remove lines 44-150 and insert:

6 (1) "Developmental education" means instruction through  
7 which a high school graduate who applies for any college credit  
8 program may attain the communication and computation skills  
9 necessary to successfully complete college credit instruction.  
10 Developmental education may be delivered through a variety of  
11 accelerated and corequisite strategies and includes any of the  
12 following:

13 (a) Modularized instruction that is customized and  
14 targeted to address specific skills gaps.

15 (b) Compressed course structures that accelerate student  
16 progression from developmental instruction to college-level  
17 coursework.

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 875 (2014)

Amendment No. 1

18 (c) Contextualized developmental instruction that is  
19 related to meta-majors.

20 (d) Corequisite developmental instruction or tutoring that  
21 supplements credit instruction while a student is concurrently  
22 enrolled in a credit-bearing course.

23 (2) "Gateway course" means the first course that provides  
24 transferable, college-level credit allowing a student to  
25 progress in his or her program of study.

26 (3) "Meta-major" means a collection of programs of study  
27 or academic discipline groupings that share common foundational  
28 skills.

29 (4) "Operating expenditures" means the expenditure of  
30 school district general and special revenue funds in accordance  
31 with the uniform chart of accounts included in the publication  
32 "Financial and Program Cost Accounting and Reporting for Florida  
33 Schools." The commissioner may specify expenditures, funds, and  
34 functional and object categories as operating expenditures.

35 (5) "Return-on-investment rating" or "ROI rating" means a  
36 calculation developed by the commissioner which results in an  
37 annual ordinal rating for a public school and a school district  
38 that displays to the public the extent by which operating  
39 expenditures have been used to positively impact student  
40 performance. Ratings shall be assigned, as provided in s.  
41 1008.34(6), based on operating expenditures and student  
42 performance.

43 Section 2. Subsection (5) of section 1008.34, Florida

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 875 (2014)

Amendment No. 1

44 Statutes, is amended, subsections (6) through (8) are renumbered  
45 as subsections (7) through (9), respectively, and a new  
46 subsection (6) is added to that section, to read:

47 1008.34 School grading system; school report cards;  
48 district grade.—

49 (5) SCHOOL REPORT CARD.—The Department of Education shall  
50 annually develop, in collaboration with the school districts, a  
51 school report card to be provided by the school district to  
52 parents within the district. The report card shall include the  
53 school's grade, information regarding school improvement, an  
54 explanation of school performance as evaluated by the federal  
55 Elementary and Secondary Education Act (ESEA), 20 U.S.C. ss.  
56 6301 et seq., and indicators of return on investment as provided  
57 in subsection (6). Each school's report card shall be published  
58 annually by the department on its website.

59 (6) RETURN-ON-INVESTMENT (ROI) RATING.—

60 (a) By February 28, 2015, the Commissioner of Education  
61 shall establish a ROI rating system. The ROI rating evaluates  
62 the extent to which public schools and school districts are  
63 using their financial resources in a cost-effective manner to  
64 improve student performance. Student performance means student  
65 learning gains on statewide, standardized assessments as  
66 provided for in this section.

67 (b) Schools shall be grouped for comparison as determined  
68 by the commissioner.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 875 (2014)

Amendment No. 1

69        (c) The commissioner shall assign the ordinal ROI ratings  
70 for all public schools and school districts in a sortable, easy-  
71 to-understand format that allows for comparisons among school  
72 districts and public schools. Beginning with the 2015-2016  
73 school year, the commissioner shall publish ratings on the  
74 Department of Education's website when school report cards are  
75 made publicly available. Each public school shall provide a link  
76 to this information on its website and annually post a copy of  
77 its most recent rating in a visible location.

78        (d) The ROI application shall include a metric to evaluate  
79 the resources available to a school as a percentage of the  
80 revenues generated by students at the school.

81        (e) Beginning with the 2015-2016 school year, each  
82 school's report card shall include the ordinal ROI rating of the  
83 school and the school district.

84        (f) The commissioner shall make every attempt to use  
85 aggregated student data that is already being collected from  
86 public schools to develop the ROI rating, including, but not  
87 limited to, data from:

- 88        1. School report cards issued under this section.
- 89        2. Accountability measures, including the annual school  
90 accountability report required by ss. 1001.42(18) and 1008.345.
- 91        3. Profiles of school districts pursuant to ss. 1010.20  
92 and 1011.60.
- 93        4. The state's program cost reporting system.

94

Amendment No. 1

95 | -----

96 | **T I T L E A M E N D M E N T**

97 | Remove lines 3-13 and insert:

98 | amending s. 1008.02, F.S.; defining the terms

99 | "operating expenditures" and "return-on-investment

100 | rating"; amending s. 1008.34, F.S.; requiring school

101 | report cards to include school and school district

102 | return-on-investment ratings; requiring the

103 | Commissioner of Education to establish a return-on-

104 | investment rating to evaluate the extent to which

105 | schools and school districts are using financial

106 | resources to improve student performance; requiring



107 | the commissioner to assign and publish return-on-

108 | investment ratings; amending s.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 939 Bail Bond Premiums  
**SPONSOR(S):** Finance & Tax Subcommittee; Stewart and others  
**TIED BILLS:** IDEN./SIM. BILLS: CS/SB 1390

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Subcommittee	14 Y, 2 N, As CS	Pewitt	Langston
2) Insurance & Banking Subcommittee	11 Y, 1 N	Bauer	Cooper
3) Appropriations Committee		Hawkins 	Leznoff 

### SUMMARY ANALYSIS

Florida imposes an annual tax on premiums collected by insurance companies doing business in the state. This tax applies to life, health, property and casualty, title insurance, and most other types of policies at a rate of 1.75% on the gross amount of premium, with deductions allowed for reinsurance accepted, return premiums, assessments, and various credits. It applies to self-insurance funds at a rate of 1.6%. It applies to annuities at a rate of 1%. It applies to wet marine and transportation insurance at a rate of 0.75% of gross underwriting profit, defined as net premiums minus net losses paid.

The bill provides that insurance premiums tax on bail bond premiums shall be calculated as 1.75% of bail bond premiums excluding any portion of the premium retained by bail bond agents or managing general agents. Other credits and exemptions applicable to insurance premiums tax may still be applied as under current law.

The Revenue Estimating Conference met on March 7, 2014 and estimated this bill would have a cash and recurring impact of -\$0.7 million to general revenue beginning in fiscal year 2014-2015.

The bill provides an effective date of January 1, 2015.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### ***Insurance Premiums Tax***

Florida imposes an annual tax on premiums collected by insurance companies doing business in the state.<sup>1</sup> This tax applies to life, health, property and casualty, surety, title insurance, and most other types of policies at a rate of 1.75% on the gross amount of premium, with deductions allowed for reinsurance accepted, return premiums and assessments.<sup>2</sup> It applies to self-insurance funds at a rate of 1.6%.<sup>3</sup> It applies to annuities at a rate of 1%.<sup>4</sup> It applies to wet marine and transportation insurance at a rate of 0.75% of gross underwriting profit, defined as net premiums minus net losses paid.<sup>5</sup>

There are a number of credits allowed against insurance premiums tax liability. These include:

- 100% of corporate income tax paid pursuant to chapter 220, F.S.<sup>6</sup>
- 15% of salaries paid by the company to its Florida-based employees.<sup>7</sup>
- 50% of a community contribution made pursuant to the Community Contribution Tax Credit Program for enterprise zones.<sup>8</sup>
- 100% of donations made to eligible scholarship funding organizations pursuant to s. 1002.395.<sup>9</sup>

The sum of the credits granted for corporate income tax and employee salaries may not exceed 65% of the insurer's premium tax liability.<sup>10</sup>

##### ***Retaliatory Tax***

When another state or foreign country levies certain taxes or fees, including insurance premiums tax, on Florida insurers in excess of the taxes and fees levied by Florida on insurers from such other state or foreign country, a retaliatory tax is charged.<sup>11</sup> Companies from the other state or foreign country are taxed using the same tax and fee structure that a similar Florida insurer operating in such state or foreign country would be charged.

##### ***Bail Bonds***

When a person is charged with a crime in this state, they may seek pre-trial release. One method of seeking release is by applying for bail.<sup>12</sup> After a bail determination hearing, the court may grant the defendant monetary bail. Such bail can be satisfied by a surety bond presented by a qualified individual, group of individuals, or a bail bond agent licensed under chapter 648, F.S.<sup>13</sup> Such surety bonds serve as a guarantee by the surety that the defendant will appear at all necessary hearings.<sup>14</sup>

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<sup>1</sup> Section 624.509, F.S.

<sup>2</sup> Section 624.509(1)(a), F.S.

<sup>3</sup> Section 624.4625(4), F.S.

<sup>4</sup> Section 624.509(1)(b), F.S.

<sup>5</sup> Section 624.510, F.S.

<sup>6</sup> Section 624.509(4), F.S.

<sup>7</sup> Section 624.509(5), F.S.

<sup>8</sup> Section 624.5105, F.S.

<sup>9</sup> Section 624.51055, F.S.

<sup>10</sup> Section 624.509(6)(a), F.S.

<sup>11</sup> Section 624.5091, F.S.

<sup>12</sup> Section 903.035, F.S.

<sup>13</sup> Section 903.045, F.S.

<sup>14</sup> Section 624.606, F.S.

Licensed bail bond agents are required to charge a premium in exchange for granting the surety bond.<sup>15</sup> Bail bond agents are subject to Section I of the Insurance Code contained in chapter 627, F.S., which requires that their rates be filed with and approved by the Office of Insurance Regulation (OIR).

Licensed bail bond agents or licensed managing general agents retain up to 93.5% of the premium, and the insurance company retains the remainder.<sup>16</sup> Unlike other types of insurance companies, domestic bail bond providers file their required financial reports to the OIR, based on premiums collected *net* of any amounts retained by agents.<sup>17</sup> However, current law requires that the reporting and payment of insurance premium taxes and related excise taxes under ss. 624.509, 624.5091, and 624.5092, F.S., is calculated using *gross* bail bond premiums.<sup>18</sup>

### **Proposed Changes**

The bill provides that insurance premiums tax on bail bond premiums shall be calculated as 1.75% of net bail bond premiums (i.e., excluding any portion of the premium retained by bail bond agents or managing general agents), as reported to the OIR. Other credits and exemptions applicable to insurance premiums tax may still be applied as under current law.

Additionally, it removes language from s. 624.4094(5), F.S., relating to calculation of insurance premiums tax on gross bail bond premiums, to conform to the changes detailed above.

#### **B. SECTION DIRECTORY:**

Section 1. Amends section 624.4094, F.S., repealing the provision that insurance premium taxes on bail bond premiums shall not be calculated based on premiums collected but excluding any portion of the premium retained by a bail bond agent.

Section 2. Amends section 624.509, F.S., to provide that insurance premiums tax on bail bond premiums shall be calculated as 1.75% of bail bond premiums but excluding any portion of the premium retained by a bail bond agent or managing general agent.

Section 3. Provides an effective date of January 1, 2015.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

##### **1. Revenues:**

The Revenue Estimating Conference met on March 7, 2014, and estimated that the bill would have a cash and recurring impact of -\$0.7 million to general revenue beginning in fiscal year 2014-2015.

##### **2. Expenditures:**

None.

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

##### **1. Revenues:**

None,

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<sup>15</sup> Section 648.33(2), F.S.

<sup>16</sup> Section 624.4094(1), F.S.

<sup>17</sup> Section 624.4094, F.S.

<sup>18</sup> Section 624.4094(5), F.S.



2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill would reduce the insurance premiums tax levied on companies that provide bail bond insurance.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 20, 2014, the Finance & Tax Subcommittee adopted a strike-all amendment to the bill. The amendment applied the exemption to both foreign and domestic companies, and changed the effective date to January 1, 2015. The analysis has been updated to reflect these changes.

1                                   A bill to be entitled  
 2           An act relating to bail bond premiums; amending s.  
 3           624.4094, F.S.; repealing a provision separating the  
 4           calculation of insurance premium taxes from financial  
 5           reporting for bail bond premiums; amending s. 624.509,  
 6           F.S.; specifying the amount of direct written premiums  
 7           for bail bonds for the purpose of calculation of  
 8           certain taxes; providing an effective date.

9  
 10   Be It Enacted by the Legislature of the State of Florida:

11  
 12           Section 1. Subsection (5) of section 624.4094, Florida  
 13   Statutes, is amended, and subsection (1) of that section is  
 14   republished, to read:

15           624.4094 Bail bond premiums.—

16           (1) The Legislature finds that a significant portion of  
 17   bail bond premiums is retained by the licensed bail bond agents  
 18   or licensed managing general agents. For purposes of reporting  
 19   in financial statements required to be filed with the office  
 20   pursuant to s. 624.424, direct written premiums for bail bonds  
 21   by a domestic insurer in this state shall be reported net of any  
 22   amounts retained by licensed bail bond agents or licensed  
 23   managing general agents. However, in no case shall the direct  
 24   written premiums for bail bonds be less than 6.5 percent of the  
 25   total consideration received by the agent for all bail bonds  
 26   written by the agent. This subsection also applies to any

27 determination of compliance with s. 624.4095.

28 ~~(5) This section does not affect the reporting or payment~~  
 29 ~~of insurance premium taxes under ss. 624.509, 624.5091, and~~  
 30 ~~624.5092, and the insurance premium tax and related excise taxes~~  
 31 ~~shall continue to be calculated using gross bail bond premiums.~~

32 Section 2. Subsection (1) of section 624.509, Florida  
 33 Statutes, is amended, to read:

34 624.509 Premium tax; rate and computation.—

35 (1) In addition to the license taxes provided for in this  
 36 chapter, each insurer shall also annually, and on or before  
 37 March 1 in each year, except as to wet marine and transportation  
 38 insurance taxed under s. 624.510, pay to the Department of  
 39 Revenue a tax on insurance premiums, premiums for title  
 40 insurance, or assessments, including membership fees and policy  
 41 fees and gross deposits received from subscribers to reciprocal  
 42 or interinsurance agreements, and on annuity premiums or  
 43 considerations, received during the preceding calendar year, the  
 44 amounts thereof to be determined as set forth in this section,  
 45 to wit:



46 (a) An amount equal to 1.75 percent of the gross amount of  
 47 such receipts on account of life and health insurance policies  
 48 covering persons resident in this state and on account of all  
 49 other types of policies and contracts (except annuity policies  
 50 or contracts taxable under paragraph (b) and bail bond policies  
 51 or contracts taxable under paragraph (c)) covering property,  
 52 subjects, or risks located, resident, or to be performed in this

53 | state, omitting premiums on reinsurance accepted, and less  
 54 | return premiums or assessments, but without deductions:  
 55 |       1. For reinsurance ceded to other insurers;  
 56 |       2. For moneys paid upon surrender of policies or  
 57 | certificates for cash surrender value;  
 58 |       3. For discounts or refunds for direct or prompt payment  
 59 | of premiums or assessments; and  
 60 |       4. On account of dividends of any nature or amount paid  
 61 | and credited or allowed to holders of insurance policies;  
 62 | certificates; or surety, indemnity, reciprocal, or  
 63 | interinsurance contracts or agreements, ~~and~~  
 64 |       (b) An amount equal to 1 percent of the gross receipts on  
 65 | annuity policies or contracts paid by holders thereof in this  
 66 | state.  
 67 |       (c) An amount equal to 1.75 percent of the direct written  
 68 | premiums for bail bonds excluding any amounts retained by  
 69 | licensed bail bond agents or licensed managing general agents.  
 70 |       Section 3. This act shall take effect January 1, 2015.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 943 Department of Revenue's Certified Audit Program  
**SPONSOR(S):** Raulerson and other  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 1022

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Subcommittee	17 Y, 0 N	Flieger	Langston
2) Appropriations Committee		Hawkins 	Leznoff 

### SUMMARY ANALYSIS

Section 213.285, Florida Statutes, F.S., establishes a Certified Audit Program as a cooperative effort between the Department of Revenue and the Florida Institute of Certified Public Accountants. The program allows taxpayers to hire qualified CPA firms to review their tax compliance for the tourist development taxes imposed by ss. 125.0104 and 125.0108, F.S, and the sales and use tax imposed by ch. 212, F.S.

To encourage participation in the program, taxpayers who undergo a certified audit receive a statutorily guaranteed waiver of all penalties, abatement of the first \$25,000 of interest, and an additional 25 percent of any interest liability in excess of the first \$25,000 if that audit reveals additional liability. A taxpayer may not currently participate in the certified audit program if they are currently under audit or have received a written notice of intent to audit.

The bill allows taxpayers to participate in the certified audit program after they have received a notice of intent to audit. The amount of interest abated for such taxpayers is reduced to the first \$15,000 and 15 percent of any amount over \$15,000. The bill also increases the amount of interest that is abated for participating taxpayers who have not received a notice of intent to audit to an abatement of the first \$50,000 of interest plus 50 percent of any amount over \$50,000.

On February 28, 2014, the Revenue Estimating Conference estimated that allowing taxpayers to enter the certified audit program after receiving a notice of intent to audit would have a recurring impact of -\$1.4 million to General Revenue and a recurring impact of -\$0.3 million to local governments. Impacts will not begin until fiscal year 2015-2016. The interest abatement changes for the current program will have an indeterminate fiscal impact of unknown direction.

The effective date is July 1, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

The Department of Revenue ("DOR") routinely audits businesses in this state to determine if state taxes were collected, reported, and paid correctly. DOR begins the audit process by mailing a taxpayer a Notification of Intent to Audit Books and Records ("notice of intent").<sup>1</sup> This notice identifies the audit period and taxes to be examined. The types of records needed may include, but are not limited to: federal income tax returns, Florida tax returns, depreciation schedules, general ledgers and journals, property records, cash receipt and disbursement journals, purchase and sales journals, sales tax exemption or resale certificates, and documentation to verify amounts entered on tax returns. An audit may extend back three years.<sup>2</sup>

To encourage voluntarily compliance by taxpayers, s. 213.285, F.S., establishes a Certified Audit Program as a cooperative effort between DOR and the Florida Institute of Certified Public Accountants. The program allows taxpayers to hire qualified CPA firms to review their tax compliance for the tourist development taxes imposed by ss. 125.0104 and 125.0108, F.S, and the sales and use tax imposed by ch. 212, F.S.<sup>3</sup>

To encourage participation in the program, taxpayers who undergo a certified audit receive a statutorily guaranteed waiver of all penalties, abatement of the first \$25,000 of interest, and an additional 25 percent of any interest liability in excess of the first \$25,000 in cases where the audit reveals additional liability.<sup>4</sup> These incentives are not available where tax was collected but not remitted to the state. Additionally, except in cases of fraud or misrepresentation, DOR will not audit a taxpayer who uses the program for the same tax years that the certified audit reviewed.

A taxpayer may not participate in the certified audit program if they are currently under audit or have received a written notice of intent to audit from DOR.

To conduct a certified audit a CPA must possess an active Florida CPA license, attend a 2.5-day training seminar, and pass an examination to be certified. For a firm to be eligible to conduct certified audits, several additional requirements must be met. The firm must be a licensed audit firm with the Florida Board of Accountancy, have received a timely on-site peer review, and must conduct the audits using agreed-upon procedures. A staff member of the firm must have completed DOR-provided training on Florida multi-tax software.<sup>5</sup>

To be eligible to provide a certified audit service to a taxpayer, the qualified CPA firm must also be independent with respect to that taxpayer, pursuant to the guidelines established by Florida Board of Accountancy.<sup>6</sup>

When the certified audit project was authorized by the Legislature in 1998, a sunset provision was included of July 1, 2002. The program was made permanent in 2003.<sup>7</sup>

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<sup>1</sup> Form DR-840 or CA-I

<sup>2</sup> Section 95.091, F.S.

<sup>3</sup> Rule 12-25.0305, F.A.C.

<sup>4</sup> Section 213.21(8), F.S.

<sup>5</sup> Rule 12-25.033, F.A.C.

<sup>6</sup> <http://www.ficpa.org/Content/CPAResources/Professional/Audit/Issues.aspx> (last accessed 3/3/14)

<sup>7</sup> Section 40, ch. 2003-254, L.O.F.

## Proposed Changes

The bill allows taxpayers to participate in the certified audit program after they have received a notice of intent to audit from DOR. The time limits for administering a certified audit in that situation are modified, giving the taxpayer an additional 30 days to submit a proposed audit plan. Within 90 days after the submittal of the proposed audit plan, the department shall designate the agreed-upon procedures for that audit. The certified auditor has 285 days from the date of the notice of intent to audit to timely complete the audit.

The amount of interest that is abated for such taxpayers is \$15,000 plus 15 percent of any amount over \$15,000.

The bill also increases the amount of interest that is abated for participating taxpayers who have not received a notice of intent to audit, increasing the abatement to the first \$50,000 of interest plus 50 percent of any amount over \$50,000.

The bill codifies into statute the current rule<sup>8</sup> that the certified audit program only applies to the sales and use tax and the tourist development tax.

### B. SECTION DIRECTORY:

Section 1. Amends s. 213.21, F.S., to adjust the amount of interest abated.

Section 2. Amends s. 213.285, F.S., to allow taxpayers who have received a notice of intent to audit to participate in the certified audit program, providing procedures for such participation, codifying the applicable taxes.

Section 3. Amends s. 213.053, F.S., conforming changes.

Section 4. Providing an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

On February 28, 2014, the Revenue Estimating Conference estimated that allowing taxpayers to enter the certified audit program after receiving a notice of intent to audit would have a recurring impact of -\$1.4 million to General Revenue. Impacts will not begin until fiscal year 2015-2016. The interest abatement changes for the current program will have an indeterminate fiscal impact of unknown direction.

#### 2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

The Revenue Estimating Conference estimated that allowing taxpayers to enter the certified audit program after receiving a notice of intent to audit would have a recurring impact of -\$0.3 million to



local governments. Impacts will not begin until fiscal year 2015-2016. The interest abatement changes for the current program will have an indeterminate fiscal impact of unknown direction.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Taxpayers who take advantage of the certified audit program may see their tax liability decrease due to the abatement of interest and waiver of penalties. CPAs who are certified by DOR to conduct such audits will see additional demand for their services should the expanded eligibility lead to more participation.

D. FISCAL COMMENTS:

Increased participation in the certified audit program should free up resources to allow DOR to conduct more audits and collect additional taxes from noncompliant taxpayers whose liability would have otherwise gone undetected.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill may cause local governments to receive lower collections from local option sales taxes; however, an exemption may apply as the negative impact to local governments may be insignificant.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1                                   A bill to be entitled  
 2           An act relating to the Department of Revenue's  
 3           certified audit program; amending s. 213.21, F.S.;  
 4           revising the amounts of interest liability that the  
 5           department may abate for taxpayers participating in  
 6           the certified audit program; authorizing a taxpayer to  
 7           participate in the certified audit program after the  
 8           department has issued notice of intent to conduct an  
 9           audit of the taxpayer; reducing the amount of interest  
 10          that may be abated for a taxpayer requesting to  
 11          participate in the program; amending s. 213.285, F.S.;  
 12          conforming provisions; specifying the tax programs to  
 13          be audited; revising procedures, deadlines, and notice  
 14          requirements for certified audits; authorizing the  
 15          department to adopt rules prohibiting a qualified  
 16          practitioner from representing a taxpayer in informal  
 17          conference procedures under certain circumstances;  
 18          amending s. 213.053, F.S.; conforming terminology;  
 19          providing an effective date.

20  
 21   Be It Enacted by the Legislature of the State of Florida:

22  
 23           Section 1. Subsection (8) of section 213.21, Florida  
 24   Statutes, is amended to read:

25           213.21 Informal conferences; compromises.—

26           (8) In order to determine whether certified audits are an

27 effective tool in the overall state tax collection effort, the  
 28 executive director of the department or the executive director's  
 29 designee shall settle or compromise penalty liabilities of  
 30 taxpayers who participate in the certified audit program ~~audits~~  
 31 ~~project~~. As further incentive for participating in the program,  
 32 the department shall:

33 (a) For a taxpayer who requests to participate in the  
 34 program before the department has issued the taxpayer a written  
 35 notice of intent to conduct an audit, abate the first \$50,000 of  
 36 any interest liability and 50 percent of any interest due in  
 37 excess of the first \$50,000; or

38 (b) For a taxpayer who requests to participate in the  
 39 program after the department has issued the taxpayer a written  
 40 notice of intent to conduct an audit, abate the first \$15,000  
 41 ~~\$25,000~~ of any interest liability and 15 ~~25~~ percent of any  
 42 interest due in excess of the first \$15,000 ~~\$25,000~~.

43  
 44 A settlement or compromise of penalties or interest pursuant to  
 45 this subsection is ~~shall~~ not be subject to ~~the provisions of~~  
 46 paragraph (3)(a), except for the requirement relating to  
 47 confidentiality of records. The department may consider an  
 48 additional compromise of tax or interest pursuant to ~~the~~  
 49 ~~provisions of~~ paragraph (3)(a). This subsection does not apply  
 50 to ~~any~~ liability related to taxes collected but not remitted to  
 51 the department.

52 Section 2. Section 213.285, Florida Statutes, is amended

53 to read:

54 213.285 Certified audits.—

55 (1) As used in this section, the term:

56 (a) "Certification program" means an instructional  
 57 curriculum, examination, and process for certification,  
 58 recertification, and revocation of certification of certified  
 59 public accountants which is administered by an independent  
 60 provider and ~~which~~ is officially approved by the department to  
 61 ensure that a certified public accountant possesses the  
 62 necessary skills and abilities to successfully perform an  
 63 attestation engagement for tax compliance review in the a  
 64 certified audit program ~~audits project~~.

65 (b) "Department" means the Department of Revenue.

66 (c) "Participating taxpayer" means any person subject to  
 67 the revenue laws administered by the department who enters into  
 68 an engagement with a qualified practitioner for tax compliance  
 69 review and who is approved by the department under the certified  
 70 audit program ~~audits project~~.

71 (d) "Qualified practitioner" means a certified public  
 72 accountant who is licensed to practice in this state ~~Florida~~ and  
 73 who has completed the certification program.

74 (2)(a) The department may ~~is authorized to~~ initiate a  
 75 certified audit program for sales and use taxes imposed under  
 76 chapter 212 and local option taxes imposed under ss. 125.0104  
 77 and 125.0108 and administered by the department ~~audits project~~  
 78 to further enhance tax compliance reviews performed by qualified

79 practitioners and to encourage taxpayers to hire qualified  
 80 practitioners at their own expense to review and report on their  
 81 tax compliance. The nature of certified audit work performed by  
 82 qualified practitioners shall be agreed-upon procedures in which  
 83 the department is the specified user of the resulting report.

84 (b) As an incentive for taxpayers to incur the costs of a  
 85 certified audit, the department shall compromise penalties and  
 86 abate interest due on ~~any~~ tax liabilities revealed by the a  
 87 certified audit:

88 1. For a taxpayer who requests to participate in the  
 89 certified audit program before the department has issued the  
 90 taxpayer a written notice of intent to conduct an audit, as  
 91 provided in s. 213.21(8)(a); or

92 2. For a taxpayer who requests to participate in the  
 93 certified audit program after the department has issued the  
 94 taxpayer a written notice of intent to conduct an audit, as  
 95 provided in s. 213.21(8)(b) s. 213.21.

96  
 97 The ~~This~~ authority to compromise penalties or abate interest  
 98 under this paragraph does ~~shall~~ not apply to ~~any~~ liability for  
 99 taxes ~~that were~~ collected by the participating taxpayer but ~~that~~  
 100 were not remitted to the department.

101 (3) A ~~Any~~ practitioner responsible for planning,  
 102 directing, or conducting a certified audit or reporting on a  
 103 participating taxpayer's tax compliance with ~~in~~ a certified  
 104 audit must be a qualified practitioner. For the purposes of this

105 subsection, a practitioner is considered responsible for:

106 (a) "Planning" in a certified audit when performing work  
 107 that involves determining the objectives, scope, and methodology  
 108 of the certified audit, ~~when~~ establishing criteria to evaluate  
 109 matters subject to the review as part of the certified audit,  
 110 ~~when~~ gathering information used in planning the certified audit,  
 111 or ~~when~~ coordinating the certified audit with the department.

112 (b) "Directing" in a certified audit when the work  
 113 involves supervising the efforts of others who are involved or  
 114 ~~when~~ reviewing the work to determine whether it is properly  
 115 accomplished and complete.

116 (c) "Conducting" a certified audit when performing tests  
 117 and procedures or field audit work necessary to accomplish the  
 118 audit objectives in accordance with applicable standards.

119 (d) "Reporting" on a participating taxpayer's tax  
 120 compliance in a certified audit when determining report contents  
 121 and substance or reviewing reports for technical content and  
 122 substance before ~~prior to~~ issuance.

123 (4)(a) A ~~The~~ qualified practitioner shall notify the  
 124 department of an engagement to perform a certified audit and  
 125 ~~shall~~ provide the department with the information the department  
 126 deems necessary to identify the taxpayer, to confirm whether  
 127 ~~that~~ the taxpayer is ~~not~~ already under audit by the department,  
 128 and to establish the basic nature of the taxpayer's business and  
 129 the taxpayer's potential exposure to the ~~Florida~~ revenue laws  
 130 administered by the department. Once the department has issued a

131 written notice of intent to conduct an audit to a taxpayer, and  
 132 if the taxpayer requests to participate in the certified audit  
 133 program, the qualified practitioner or the taxpayer must notify  
 134 the department of the engagement to perform the certified audit  
 135 within 30 days after the notice of intent to conduct the audit  
 136 was issued to the taxpayer.

137 (b) The information provided in the notification must  
 138 ~~shall~~ include the taxpayer's name, federal employer  
 139 identification number or social security number, state tax  
 140 account number, mailing address, and business location, and the  
 141 specific taxes and period proposed to be covered by the  
 142 engagement for the certified audit. In addition, the notice must  
 143 ~~shall~~ include the name, address, identification number, contact  
 144 person, e-mail address, and telephone number of the engaged  
 145 firm.

146 (c) ~~(b)~~ Upon the department's receipt of the engagement ~~if~~  
 147 ~~the taxpayer has not been issued a written notice of intent to~~  
 148 ~~conduct an audit,~~ the taxpayer becomes ~~shall be~~ a participating  
 149 taxpayer and the department shall so advise the qualified  
 150 practitioner in writing within 10 days after receipt of the  
 151 engagement notice. However, the department may exclude a  
 152 taxpayer from a certified audit or may limit the taxes or  
 153 periods subject to the certified audit if ~~on the basis that~~ the  
 154 department has previously conducted an audit, ~~that it~~ is in the  
 155 process of conducting an investigation or other examination of  
 156 the taxpayer's records, or for just cause determined solely by

157 the department.

158 ~~(d)(e)~~ Notice of the qualification of a taxpayer for a  
 159 certified audit tolls ~~shall toll~~ the statute of limitations  
 160 provided in s. 95.091 with respect to the taxpayer for the tax  
 161 and periods covered by the engagement.

162 ~~(e)(d)~~ ~~Within 30 days after receipt of the notice of~~  
 163 ~~qualification from the department,~~ The qualified practitioner  
 164 shall contact the department and, within the following periods,  
 165 shall submit a proposed audit plan and procedures for review and  
 166 agreement by the department:

167 1. For a taxpayer who requests to participate in the  
 168 certified audit program before the department has issued the  
 169 taxpayer a written notice of intent to conduct an audit, within  
 170 30 days after receipt of the notice of qualification from the  
 171 department; or

172 2. For a taxpayer who requests to participate in the  
 173 certified audit program after the department has issued the  
 174 taxpayer a written notice of intent to conduct an audit, within  
 175 60 days after the department issued the taxpayer the notice of  
 176 intent to conduct the audit.

177  
 178 The department may extend the time for submission of the plan  
 179 and procedures for reasonable cause. The qualified practitioner  
 180 shall initiate action to advise the department that amendment or  
 181 modification of the plan and procedures is necessary if ~~in the~~  
 182 ~~event that~~ the qualified practitioner's inspection reveals that



183 the taxpayer's circumstances or exposure to the revenue laws is  
 184 substantially different than as described in the engagement  
 185 notice.

186 (f) If the taxpayer has been issued a written notice of  
 187 intent to conduct an audit but submits a proposed audit plan and  
 188 procedures in accordance with subparagraph (e)2. within 90 days  
 189 after the notice of intent was issued to the taxpayer, the  
 190 department shall designate the agreed-upon procedures to be  
 191 followed by the qualified practitioner in the certified audit.

192 (5) Upon the department's designation of the agreed-upon  
 193 procedures to be followed by the practitioner in the certified  
 194 audit, the qualified practitioner shall perform the engagement  
 195 and ~~shall~~ timely submit a completed report to the department.  
 196 The report must ~~shall~~ affirm completion of the agreed-upon  
 197 procedures and ~~shall~~ provide ~~any~~ required disclosures. For a  
 198 certified audit completed pursuant to agreed-upon procedures  
 199 designated by the department under paragraph (4)(f), the  
 200 completed report is considered timely only if submitted to the  
 201 department within 285 days after the notice of intent to conduct  
 202 the audit was issued to the taxpayer.

203 (6) The department shall review the report of the  
 204 certified audit and shall accept it when it is determined to be  
 205 complete. Once the report is accepted by the department, the  
 206 department shall issue a notice of proposed assessment  
 207 reflecting the determination of any additional liability  
 208 reflected in the report and shall provide the taxpayer with all

209 the normal payment, protest, and appeal rights with respect to  
 210 the liability. In cases where the report indicates an  
 211 overpayment has been made, the taxpayer shall submit a properly  
 212 executed application for refund to the department. Otherwise,  
 213 the certified audit report is a final and conclusive  
 214 determination with respect to the tax and period covered. An ~~Ne~~  
 215 additional assessment may not be made by the department for the  
 216 specific taxes and period referenced in the report, except upon  
 217 a showing of fraud or misrepresentation of material facts and  
 218 except for adjustments made under s. 198.16 or s. 220.23. This  
 219 determination does ~~shall~~ not prevent the department from  
 220 collecting liabilities not covered by the report or from  
 221 conducting an audit or investigation and making an assessment  
 222 for additional tax, penalty, or interest for any tax or period  
 223 not covered by the report.

224 (7) To administer ~~implement~~ the certified audit program  
 225 ~~audits project~~, the department may ~~shall have authority to~~ adopt  
 226 rules relating to:

227 (a) The availability of the certification program required  
 228 for participation in the certified audit program ~~project~~;

229 (b) The requirements and basis for establishing just cause  
 230 for approval or rejection of participation by taxpayers;

231 (c) Procedures for assessment, collection, and payment of  
 232 liabilities or refund of overpayments and provisions for  
 233 taxpayers to obtain informal and formal review of certified  
 234 audit results;

235 (d) The nature, frequency, and basis for the department's  
 236 review of certified audits conducted by qualified practitioners,  
 237 including the requirements for documentation, work-paper  
 238 retention and access, and reporting; ~~and~~

239 (e) Requirements for conducting certified audits and for  
 240 review of agreed-upon procedures; and

241 (f) The circumstances under which a qualified practitioner  
 242 who conducts a certified audit for a taxpayer after the  
 243 department has issued the taxpayer a written notice of intent to  
 244 conduct the audit is prohibited from representing the taxpayer  
 245 in informal conference procedures established pursuant to s.  
 246 213.21.

247 Section 3. Paragraph (m) of subsection (8) of section  
 248 213.053, Florida Statutes, is amended to read:

249 213.053 Confidentiality and information sharing.—

250 (8) Notwithstanding any other provision of this section,  
 251 the department may provide:

252 (m) Information contained in returns, reports, accounts,  
 253 or declarations to the Board of Accountancy in connection with a  
 254 disciplinary proceeding conducted pursuant to chapter 473 when  
 255 related to a certified public accountant participating in the  
 256 certified audit program ~~audits project~~, or to the court in  
 257 connection with a civil proceeding brought by the department  
 258 relating to a claim for recovery of taxes due to negligence on  
 259 the part of a certified public accountant participating in the  
 260 certified audit program ~~audits project~~. In a ~~any~~ judicial

261 proceeding brought by the department, upon motion for protective  
 262 order, the court shall limit disclosure of tax information when  
 263 necessary to effectuate the purposes of this section.

264

265 Disclosure of information under this subsection shall be  
 266 pursuant to a written agreement between the executive director  
 267 and the agency. Such agencies, governmental or nongovernmental,  
 268 shall be bound by the same requirements of confidentiality as  
 269 the Department of Revenue. Breach of confidentiality is a  
 270 misdemeanor of the first degree, punishable as provided by s.  
 271 775.082 or s. 775.083.

272 Section 4. This act shall take effect July 1, 2014.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 7069      PCB EDC 14-01      Early Learning and Child Care Regulation  
**SPONSOR(S):** Education Appropriations Subcommittee, Education Committee, and O'Toole  
**TIED BILLS:**                **IDEN./SIM. BILLS:** SB 1702

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Education Committee	16 Y, 0 N	Beagle	Mizereck
1) Education Appropriations Subcommittee	12 Y, 0 N, As CS	Seifert	Heflin
2) Appropriations Committee		Fontaine <i>WFA</i>	Leznoff <i>W</i>

### SUMMARY ANALYSIS

Currently, the state-funded early learning programs, i.e., the School Readiness and Voluntary Prekindergarten Education (VPK) programs, are delivered by a diverse range of providers, including public schools, licensed child care providers, licensed-exempt child care providers, and nonpublic schools. The child health and safety standards applicable to each provider type and the degree to which minimum levels of health and safety are inspected and enforced vary widely. Among other things, the bill increases early learning provider health and safety requirements and personnel quality by requiring:

- Private providers to be licensed or, if the provider is a licensed-exempt faith-based provider or nonpublic school, agree to substantially comply with specified health and safety standards and submit to inspections by the Department of Children and Families (DCF) or local licensing agency.
- Providers to notify parents of health and safety violations and prominently post citations that result in disciplinary action and inspection reports on the premises.
- That providers with Class I violations in the previous year be denied program eligibility unless certain requirements are met.
- By January 1, 2016, personnel to be at least 18 years of age and hold a high school diploma (or equivalent), with exceptions.
- By January 1, 2015, personnel to be trained in first aid and cardiopulmonary resuscitation, with exceptions.
- Personnel to be trained in developmentally appropriate practices aligned to the age and needs of children served by the personnel.
- The Office of Early Learning (OEL) to develop online training on the School Readiness program performance standards and provider personnel to complete the training.

Several bill provisions effect child care regulation in general. Among other things, the bill adds failure to report child abuse as a disqualifying offense for child care employment and requires employment history checks; prohibits licensed child care providers who have been disciplined for serious licensing violations from transferring ownership to relatives in order to remain in business; requires family day care homes (FDCH) to conspicuously post their license or registration on the premises; and requires substitutes for operators of registered FDCHs to meet the same training requirements as substitutes in licensed homes.

The bill reduces regulatory burdens on state agencies and child care providers by authorizing Early Learning Coalitions (ELC) to allow private providers to determine child eligibility for the VPK program; requiring ELCs, OEL, and DCF to cooperate in reducing paperwork and duplicative regulations; expanding DCF's authority to conduct abbreviated inspections; and extending to large family child care homes certain protections regarding zoning, property insurance, and utility rates currently available to FDCHs. Among other terminology changes, the bill directs the Division of Law Revision and Information to change the name of the School Readiness Program to the Child Care and Development Program.

The bill has a significant fiscal impact upon DCF due to the increased regulatory workload. Nonpublic schools and license-exempt faith-based providers of state-funded early learning programs may experience increased costs associated with increased health and safety regulation. See Fiscal Analysis & Economic Impact Statement.

The bill takes effect July 1, 2014

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Early Learning and Child Care Regulation

###### **Present Situation**

Florida's Office of Early Learning (OEL)<sup>1</sup> provides state-level administration for two state-funded early learning programs serving preschool age children – the School Readiness program and the Voluntary Prekindergarten Education (VPK) program. Both programs differ in purpose and utilize a variety of providers to deliver program services, such as licensed and unlicensed child care providers and public and nonpublic schools.<sup>2</sup> 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, regulates child care providers that provide early learning programs.<sup>3</sup>

###### School Readiness Program

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. The School Readiness Program is a state-federal partnership between OEL and the Office of Child Care of the United States Department of Health and Human Services.<sup>4</sup> The School Readiness program receives funding from a mixture of state and federal sources, including the federal Child Care and Development Fund (CCDF) block grant, the federal Temporary Assistance for Needy Families (TANF) block grant, and general revenue and other state funds.<sup>5</sup> The program is administered at the county or regional level by early learning coalitions (ELC).<sup>6</sup>

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

---

<sup>1</sup> 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 Voluntary Prekindergarten Education Program. Section 1, 2013-252, L.O.F., *codified as* s. 1001.213, F.S.

<sup>2</sup> Parts V and VI, ch. 1002, F.S.

<sup>3</sup> *See* ss. 402.301-319, F.S., and Parts V and VI, ch. 1002, F.S.

<sup>4</sup> Part VI, ch. 1002, F.S.; 42 U.S.C. ss. 618 & 9858-9858q; U.S. Department of Health and Human Services, *Child Care and Development Fund Fact Sheet* (2014), available at [http://www.acf.hhs.gov/sites/default/files/assets/FS\\_OCC\\_0.pdf](http://www.acf.hhs.gov/sites/default/files/assets/FS_OCC_0.pdf).

<sup>5</sup> Specific Appropriations 78A and 79, s. 2, ch. 2013-40, L.O.F.

<sup>6</sup> Sections 1002.83-1002.85, F.S. There are currently 31 ELCs, which is the maximum permitted by law. Section 1002.83(1), F.S.; *see* Florida's Office of Early Learning, *Early Learning Coalition Directory* (Feb. 5, 2014), <http://www.floridaearlylearning.com/sites/www/Uploads/files/Parents/CoalitionDirectory.pdf>.

- An informal child care provider authorized in the state's CCDF plan.<sup>7</sup>

### Voluntary Prekindergarten Education Program

The VPK program is a voluntary, free prekindergarten program offered to eligible four-year old children in the year before admission to kindergarten.<sup>8</sup> Children enrolled in the VPK program receive instruction in emergent literacy and mathematics skills necessary for kindergarten readiness.<sup>9</sup> A child must be a Florida resident and attain four years of age on or before September 1 of the academic year to be eligible for the VPK program. Parents may choose either a school-year or summer program offered by either a public school or private prekindergarten provider.<sup>10</sup> A parent enrolling a child in the VPK program must complete and submit an application to the ELC. Thus, public school and private prekindergarten providers do not determine child eligibility for the program.<sup>11</sup>

Local oversight of individual VPK program providers is split, with ELCs providing administration over programs delivered by private prekindergarten providers and school districts administering public school VPK programs.<sup>12</sup> Each district school board determines which district schools will offer the school-year and summer VPK programs and such schools must register with the ELC.<sup>13</sup>

The VPK program may be offered by either a private prekindergarten provider or a public school. To offer the VPK program, a private prekindergarten provider must be a:

- Licensed child care facility;
- Licensed FDCH;
- Licensed LFCCH;
- Nonpublic school; or
- License-exempt faith-based child care provider.<sup>14</sup>

In addition, a private prekindergarten provider must:

- Be accredited by an accrediting association that is a member of either the National Council for Private School Accreditation, or the Florida Association of Academic Nonpublic Schools, or be accredited by the Southern Association of Colleges and Schools, the Western Association of Colleges and Schools, the North Central Association of Colleges and Schools, the Middle States Association of Colleges and Schools, or the New England Association of Colleges and

<sup>7</sup> Section 1002.88(1)(a), F.S. Generally speaking, informal child care is care provided by a relative. See Florida's Office of Early Learning, *Child Care and Development Fund State Plan FFY 2014-15*, at 71 (Oct. 1, 2013), available at [http://www.floridaearlylearning.com/sites/www/Uploads/files/Oel%20Resources/2014-2015\\_CCDF\\_Plan\\_%20Optimized.pdf](http://www.floridaearlylearning.com/sites/www/Uploads/files/Oel%20Resources/2014-2015_CCDF_Plan_%20Optimized.pdf).

<sup>8</sup> Part V, ch. 1002, F.S.; see also Art. IX, s. 1(b)-(c), 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. Florida Department of State, Division of Elections, *Voluntary Universal Prekindergarten Education*, <http://election.dos.state.fl.us/initiatives/initdetail.asp?account=34708&seqnum=1> (last visited Feb. 9, 2014).

<sup>9</sup> Section 1002.67(1)(a), F.S.

<sup>10</sup> Section 1002.53(2)-(3), F.S.

<sup>11</sup> Section 1002.53(4), F.S.

<sup>12</sup> Sections 1002.53(6), 1002.55(1), 1002.61(1), and 1002.63(1), F.S.

<sup>13</sup> Sections 1002.61(3)(a) and (8)(a) and 1002.63(3) and (8)(a), F.S. School districts must offer a summer VPK program and may limit enrollment at individual public schools so long as admission is provided to every eligible student who seeks enrollment in the district's summer program. Sections 1002.53(6)(b) and 1002.61(3)(a), F.S.

<sup>14</sup> Section 1002.55(3)(a) and (h), F.S.; see also rule 6M-8.300(3), F.A.C.; s. 402.305, F.S. (child care facilities licensing); s. 402.3025, F.S. (nonpublic schools); s. 402.313, F.S. (FDCH licensing); s. 402.3131, F.S. (LFCCH licensing); s. 402.316, F.S. (faith-based provider exempt from licensure).



Schools; and has written accreditation standards that meet the state's licensing requirements and requires at least one onsite visit before accreditation is granted;<sup>15</sup>

- Hold a current Gold Seal Quality Care designation;<sup>16</sup> or
- Be licensed and demonstrate to the ELC that the provider meets the VPK program's statutory requirements.<sup>17</sup>

Unlicensed (registered) FDCHs and informal child care providers are not eligible to offer the VPK program.<sup>18</sup>

### Child Care Personnel and Instructor Qualifications

An application for a child care personnel position with a licensed child care facility, FDCH, or LFCCH must require the applicant to disclose, under penalty of perjury, whether he or she has ever worked for a provider that has had its license denied, revoked, or suspended in any state or jurisdiction or if he or she, individually, has been the subject of a disciplinary action or been fined while so employed.<sup>19</sup> Child care employers must conduct employment history checks on prospective employees.<sup>20</sup> The law generally requires all employers of employees who are subject to background screening requirements to furnish copies of personnel records of employees and former employees, including records of termination or disciplinary actions, when requested by other employers. The law shields such employers from any liability resulting from such release of employment records, unless the employer maliciously falsifies the records.<sup>21</sup>

Child care personnel employed by licensed child care facilities, licensed and registered FDCHs, LFCCHs, licensed-exempt child care providers, and nonpublic schools and VPK program instructors employed by public schools, must undergo Level 2<sup>22</sup> background screening.<sup>23</sup> The Level 2 screening requirement for public school VPK program instructors differs with the screening requirements for other public school instructional personnel. Such personnel are screened against a distinct list of 59 disqualifying offenses.<sup>24</sup>

Currently, the minimum age for employment as child care personnel is 16 years of age.<sup>25</sup> The minimum age for employment in an instructional capacity with a public school district is 18 years of age.<sup>26</sup> Licensed child care facility personnel, licensed and registered FDCH operators, and LFCCH operators must complete introductory child care training and .5 unit of continuing education which includes, among other things, early literacy and language development.<sup>27</sup> Introductory training for licensed child

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<sup>15</sup> Section 1002.55(3)(b)1., F.S.

<sup>16</sup> Section 402.281, F.S.; rule 65C-22.009, F.A.C.; *see also* Florida Department of Children and Family Services, *Gold Seal Quality Care*, <http://www.dcf.state.fl.us/childcare/goldseal.shtml> (last visited Feb. 21, 2014). 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 Association of Family Child Care, and National Early Childhood Program Accreditation Commission. Section 402.281(1)-(3), F.S.

<sup>17</sup> Section 1002.55(3)(b), F.S.

<sup>18</sup> Section 1002.55(3)(a), F.S..

<sup>19</sup> Section 402.3055(1)(b), F.S.

<sup>20</sup> Section 402.302(15), F.S.

<sup>21</sup> Section 435.10, F.S.

<sup>22</sup> Level 2 background screening requires individuals to be screened against a statutorily prescribed list of 51 offenses. *See* s. 435.04, F.S.

<sup>23</sup> Sections 402.302(15)(definition of screening), 402.305(2)(child care facilities), 402.313(3)(FDCH), 402.3131(2)(LFCCH), 1002.55(3)(d)-(e)(private provider of VPK school year program), 1002.61(5)-(6)(public school and private providers of the VPK summer program), and 1002.63(5)-(6), F.S. (public school provider of school year VPK program).

<sup>24</sup> Sections 1012.315 and 1012.32, F.S.; rule 6A-5.056(8), F.A.C. (crimes involving moral turpitude).

<sup>25</sup> Section 402.305(2)(c), F.S.

<sup>26</sup> Section 1012.32(1), F.S.

<sup>27</sup> Section 402.305(2)(d)1. and 5., F.S. (licensed child care facilities); s. 402.313(1)(a)6. and (6), F.S. and rule 65C-20.009(3), F.A.C. (FDCH) and 402.3131(5), F.S. and rule 65C-20.013(5), F.A.C. (LFCCH).

care facility personnel and LFCCH operators includes developmentally appropriate practices courses for serving infants and toddlers, preschoolers, school-age children, and special needs children.<sup>28</sup> There is no requirement that introductory training or continuing education address emergent numeracy skills or that personnel take developmentally appropriate practices courses aligned to the specific age group or child classification to which they are assigned.

A licensed child care facility must have at least one employee on site who is trained in first aid and cardiopulmonary resuscitation (CPR). Operators of licensed FDCHs and LFCCHs and their substitutes must also be trained in these techniques.<sup>29</sup> First aid and CPR training are not required for registered FDCH operators and their substitutes.

Currently, the training requirements for substitutes for licensed FDCH operators differentiate between substitutes who work 40 hours or more per month from those who work less. Substitutes who work 40 hours or more per month must take a 30-clock-hour introductory child care course; a .5 continuing education unit early literacy course, and first aid and CPR training. Substitutes who work less than 40 hours per month must take a 6-clock-hour child care rules and regulations course. These training requirements do not apply to substitutes working in registered FDCHs.<sup>30</sup>

The law specifies minimum allowable educational credentials for VPK program instructors, which vary depending on whether they work for a private or public school provider or teach during a school year or summer program. Such credentials include the child development associate credential, various education and early childhood-related associates or bachelor's degrees, or a Florida professional teaching certificate.<sup>31</sup> There is no requirement that other child care personnel employed by a VPK program provider or School Readiness program provider hold a high school diploma.

The law requires OEL to develop and adopt standards and benchmarks that address the age-appropriate progress of children in the development of school readiness skills. These standards must be aligned with the performance standards adopted for children in the VPK program and must address:

- Approaches to learning.
- Cognitive development and general knowledge.
- Numeracy, language, and communication.
- Physical development.
- Self-regulation.<sup>32</sup>

Each ELC must provide professional development to School Readiness program teachers regarding the OEL-adopted performance standards.<sup>33</sup>

### Child Health and Safety

State-funded early learning programs are delivered by a diverse range of providers, including licensed child care providers, licensed-exempt child care providers, public schools, and nonpublic schools. The child health and safety standards applicable to each provider type and degree to which minimum levels of health and safety are inspected and enforced vary widely.

## Early Learning Providers by Classification<sup>34</sup>

<sup>28</sup> Section 402.305(2)(d), F.S. and rule 65C-22.003(2)(a)3., F.A.C. (licensed child care facilities); s. 402.3131(3), F.S. and rule 65C-20.013(5)(b), F.A.C. (LFCCH).

<sup>29</sup> Section 402.305(7)(a), F.S.; rule 65C-20.009(3)(c), F.S.

<sup>30</sup> Section 402.313(1)(a) and (13), F.S.; rule 65C-20.009(3), F.A.C.

<sup>31</sup> Section 1002.55(3)(c)1. and (4), F.S.

<sup>32</sup> Section 1002.82(2)(j), F.S.

<sup>33</sup> Section 1002.83(13), F.S.

<sup>34</sup> Email, Office of Early Learning, Legislative Affairs Director, (Feb. 12, 2014).

Provider Classification	Eligible Providers	
	School Readiness Program	VPK Program
Licensed Child Care Facility	5,413	4,694
Licensed FDCH	1,468	49
Registered FDCH	198	Ineligible
Licensed LFCCH	233	41
Public School	782	1,026
Nonpublic School	224	82
Faith-Based Exempt	221	144
Informal Provider	18	Ineligible

### Licensed Providers

DCF issues licenses to child care facilities, FDCHs, and LFCCHs. A county may designate a local licensing agency to license such providers if its licensing standards meet or exceed DCF's standards. Five counties have established local licensing agencies – Broward, Hillsborough, Palm Beach, Pinellas, and Sarasota.<sup>35</sup>

Child care provider licenses must be renewed annually.<sup>36</sup> Licensure is optional for FDCHs; however, homes that choose not to be licensed must annually register with DCF or the local licensing agency, as applicable. A county may by ordinance require that FDCHs be licensed. Fifteen counties have enacted such ordinances -- Brevard, Broward, Clay, Duval, Hernando, Hillsborough, Manatee, Miami-Dade, Nassau, Palm Beach, Pasco, Pinellas, Polk, Sarasota, and St. Johns.<sup>37</sup> Among other things, licensed child care facilities, FDCHs, and LFCCHs must annually provide information to parents regarding the influenza virus during the months of August and September.<sup>38</sup>

DCF conducts inspections of all licensed child care providers to determine initial and renewal licensure and periodically assess continued compliance with licensing standards. Licensed child care facilities are inspected three times annually. LFCCHs and licensed FDCHs are inspected twice annually. In each case, the first inspection is an announced initial or renewal licensing inspection. Subsequent inspections are unannounced.<sup>39</sup>

Licensed child care facilities are inspected based upon 354 total licensing standards in 63 categories. Licensed FDCHs are inspected based upon 261 total standards in 38 categories. LFCCHs are inspected based upon 321 total standards in 55 categories.<sup>40</sup> Legislation enacted in 1996 directed DCF and local licensing agencies to develop and implement a plan to eliminate duplicative and unnecessary inspections and implement an abbreviated inspection plan for providers with no Class I or Class II violations in a two-year period.<sup>41</sup> DCF's abbreviated inspection plan is only applicable to child care facilities. Abbreviated inspections consist of 39 of the 63 categories of standards and only the initial or renewal licensing inspection is a full inspection.<sup>42</sup>

<sup>35</sup> 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 Feb. 10, 2014).

<sup>36</sup> Sections 402.305 and 402.306-402.308, F.S.

<sup>37</sup> Section 402.313(1), F.S.; see Department of Children and Families, *Registered Family Day Care Homes*, <http://www.myflfamilies.com/service-programs/child-care/registered-family-day-care> (last visited Dec. 5, 2013).

<sup>38</sup> Sections 402.305(9), 402.313(14), and 402.3131(9), F.S.

<sup>39</sup> Sections 402.308 and 402.311, F.S. Licensing standards are found throughout ss. 402.301-402.319, F.S., and ch. 65C-22, F.A.C. Prior to 2010, DCF and the Department of Health (DOH) shared responsibility for health/safety inspections of child care facilities. However, legislation enacted that year removed child care facility inspections from the purview of DOH. See, e.g., ss. 17 and 18, ch. 2010-161, L.O.F.; Memorandum of Agreement between DCF and DOH (April 16, 1997).

<sup>40</sup> *Id.*; ch. 65C-22, F.A.C.

<sup>41</sup> Section 79, ch. 96-175, L.O.F., codified as s. 402.3115, F.S.

<sup>42</sup> Email, Department of Children and Families, Legislative Affairs Director (Dec. 2, 2013).

DCF rule classifies licensing violations as follows:

- 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.
- Class II violations are less serious in nature than Class I violations, and could be anticipated to pose a threat to the health, safety or well-being of a child, although the threat is not imminent.
- Class III violations are less serious in nature than either Class I or Class II violations, and pose a low potential for harm to children.<sup>43</sup>

Class I violations include serious threats to health and safety, e.g., failure to report child abuse, child abuse by child care personnel, leaving children alone with personnel who have not been background screened, transporting children in vehicles without enough seat belts, and leaving a child in a vehicle while on a field trip.<sup>44</sup>

<b>Licensed Child Care Provider Standards By Class of Violation</b>			
<b>Provider Type</b>	<b>Class I</b>	<b>Class II</b>	<b>Class III</b>
<b>Child Care Facility</b>	21 standards	104 standards	229 standards
<b>Family Day Care Home</b>	28 standards	83 standards	150 standards
<b>Large Family Child Care Home</b>	31 standards	96 standards	194 standards

An OEL review of 2012-13 DCF child care licensing inspection results indicates that 106 providers of the School Readiness or VPK programs were issued Class I violations. Since the initial review of the data, eight of the child care providers closed leaving 98 providers with a total of 118 Class I violations. Class I violations were issued for:

- Leaving unscreened individuals alone to supervise children: 25
- Failure to report child abuse: 19
- Inadequate supervision of children in care: 19
- Exceeding vehicle capacity or available child restraints while transporting children: 17
- The number of children in care exceeding licensed capacity: 8
- Misrepresentations by provider personnel to inspectors: 7
- Leaving a child behind in a vehicle: 6
- Use of prohibited forms of discipline: 6
- Records indicating an active employee was convicted of a disqualifying offense: 4
- Child abuse/neglect by a provider: 3
- Failure to follow medication instructions: 3
- Failure to inspect a vehicle after off-loading children: 1
- Total: 118<sup>45</sup>

The law authorizes DCF and local licensing agencies to impose sanctions on child care providers for licensing violations and other misconduct. Sanctions include license suspension or revocation, fines, probation. When cause exists to impose sanctions, DCF or the local licensing agency must provide written notice to the licensee stating the grounds for the sanction and, if requested, grant a hearing on the matter.<sup>46</sup> The law requires the owner of a licensed child care facility to notify parents of each child in

<sup>43</sup> Rule 65C-22.010(1)(d), F.A.C.

<sup>44</sup> See, e.g., Florida Department of Children and Families, *Facility/Center Classification Summary* (July 2012), 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).

<sup>45</sup> Email, Office of Early Learning, Legislative Affairs Director (Dec. 4, 2013).

<sup>46</sup> Sections 402(1)(a), (2), and (3) and 120.60, F.S.

care regarding any transfer of ownership of the facility. The new owner must apply for a new license.<sup>47</sup> The law does not prohibit the owner of a licensed child care facility from transferring ownership to a relative after having his or her license suspended or revoked or after suspension or revocation proceedings are initiated by DCF or a local licensing agency.

The requirements regarding notifying parents of licensure status and violations vary by child care provider type:

- Each child care facility and LFCCH must conspicuously display on the premises its license.<sup>48</sup>
- Each child care facility must post conspicuously on the premises any citations that resulted in disciplinary action for one-year after its effective date.<sup>49</sup>
- Child care facilities, FDCHs, and LFCCHs must distribute to parents a DCF-developed brochure indicating the licensure status of the provider and that information about the provider's compliance with applicable state and local requirements (including violations) can be obtained by telephoning DCF or the local licensing agency.<sup>50</sup>

These requirements are inapplicable to license-exempt faith-based providers and nonpublic schools. Such providers delivering the School Readiness program must annually complete a health and safety checklist, which must be posted prominently on the premises where parents can view it. The check list must be submitted to the ELC, but the ELC does not have authority to investigate and verify the accuracy of the information therein.<sup>51</sup>

#### *Registered Family Day Care Homes*

A registered FDCH must annually register with DCF by submitting the following information:

- The name and address of the home, name of the operator, and number of children served.
- Proof of a written plan to provide a substitute for the operator that includes the name, address, and telephone number of the substitute.
- Proof of screening and background checks.
- Proof that the operator has completed the 30-hour introductory child care training course, as evidenced by passage of a competency examination, and continuing education.
- Proof that immunization records are kept current.<sup>52</sup>

Substitutes for the operator of a registered FDCH are not currently required to complete any training.<sup>53</sup> Operators of FDCHs must annually complete a health and safety self-evaluation checklist. The checklist must be signed by the operator and provided to parents as certification that specified health and safety standards are being met. There is no requirement that the checklist be submitted to DCF, nor does DCF have authority to inspect registered FDCHs.<sup>54</sup>

#### *License-Exempt Faith-Based Providers*

Child care facilities that are an integral part of a church or parochial school and accredited by an organization which requires compliance with published health, safety, and sanitation standards are exempt from licensure. DCF does not have authority to investigate whether the accreditor of a faith-

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<sup>47</sup> Section 402.305(18), F.S.

<sup>48</sup> Section 402.3125(1)(a), F.S. (child care facilities); s. 402.3131(7) and rule 65C-20.013(3)(g), F.A.C. (LFCCHs);

<sup>49</sup> Section 402.3125(1)(b), F.S.

<sup>50</sup> Sections 402.3125(5), 402.313(9), and 402.3131(6), F.S.

<sup>51</sup> Section 1002.88(1)(c), F.S.

<sup>52</sup> Section 402.313(1)(a), F.S.

<sup>53</sup> *Id.*

<sup>54</sup> Section 402.313(7), F.S.

based provider actually conducts site visits or otherwise enforces compliance with its health and safety standards.<sup>55</sup>

### *Public and Nonpublic Schools*

The law requires each public and nonpublic school facility to obtain an environmental health inspection by the local county health department<sup>56</sup> and fire safety inspection by the local fire authority prior to opening and operating in Florida.<sup>57</sup> Sanitation and safety standards for public and nonpublic school facilities are prescribed in State Board of Education rule and county health departments apply these standards when inspecting facilities.<sup>58</sup> For public schools, the law requires that these inspections be conducted periodically.<sup>59</sup> The law is silent regarding the frequency of inspections for nonpublic schools and the Department of Education (DOE) does not verify that nonpublic schools obtain inspections, unless the nonpublic school participates in a state-funded school choice scholarship program, in which case the school must annually submit a compliance form to DOE documenting annual health and fire inspections.<sup>60</sup>

Prior to opening, nonpublic schools must also obtain a signed inspection report from the county or city electrical, plumbing, and building department certifying that the school facility meets local standards for educational facilities. If a public or nonpublic school serves or caters food, Department of Health food safety standards apply and a food permit is required. The local county health department permits and inspects food service at all educational facilities.<sup>61</sup>

Nonpublic school programs for children who are at least three years of age, but under five years of age, must substantially comply with minimum child care standards for licensed child care facilities. The law defines “substantial compliance” to mean “that level of adherence which is sufficient to safeguard the health, safety, and well-being of all children under care. Substantial compliance is greater than minimal adherence but not to the level of absolute adherence. Where a violation or variation is identified as the type which impacts, or can be reasonably expected within 90 days to impact, the health, safety, or well-being of a child, there is no substantial compliance.”<sup>62</sup>

DCF or a local licensing agency must enforce substantial compliance with the standards to protect child health and safety. Enforcement mechanisms include corrective action plans, fines, and seeking a court order to close a school if conditions there pose a threat to child safety. DCF and local licensing agencies must take measures to eliminate duplicative inspections and unnecessary regulation, as practicable. Nonpublic school personnel who misrepresent or fail to disclose information regarding qualification for the licensing exemption or misuse criminal and juvenile delinquency records obtained in employee background screening may be subjected to criminal penalties.<sup>63</sup> The “substantial compliance” requirement has only been implemented in four counties.<sup>64</sup>

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<sup>55</sup> Sections 402.3025 and 402.316, F.S. Faith-based child care facilities must be an integral part of a church or parochial school. Section 402.316(1), F.S.

<sup>56</sup> Sections 381.006(16) and 1013.12, F.S. Nonpublic schools are also required to register with the DOE. Section 1002.41, F.S.

<sup>57</sup> Sections 633.206 and 1013.12, F.S.; rule 69A-58, F.A.C. (fire safety in educational facilities).

<sup>58</sup> See rules 6A-2.0010, 6A-2.0040, and 64E-13.004, F.A.C.

<sup>59</sup> Section 1013.12, F.S.

<sup>60</sup> Section 1002.421(2), F.S. State funded scholarship programs include the John M. McKay Scholarships for Students with Disabilities Program and Florida Tax Credit Scholarship Program. Sections 1002.39 and 1002.395, F.S.

<sup>61</sup> Section 381.0072, F.S.; ch. 64E-11, F.A.C

<sup>62</sup> Section 402.302(17), F.S.

<sup>63</sup> Section 402.3025(2)(d), F.S.

<sup>64</sup> The counties are Broward, Hillsborough, Palm Beach, and Pinellas. Department of Children and Families, *Provider Information*, <https://www.dcf.state.fl.us/programs/childcare/programform.shtml> (last visited Feb. 12, 2014).

## Effect of Proposed Changes

Currently, the state-funded School Readiness and VPK programs are delivered by a diverse range of providers, including public schools, licensed child care providers, licensed-exempt child care providers, and nonpublic schools. The child health and safety standards applicable to each provider type and degree to which minimum levels of health and safety are inspected and enforced varies widely. This bill holds all providers of state-funded early learning programs accountable to high standards of health and safety and site inspections. It also increases the qualifications and training for child care personnel employed by such providers. The bill empowers parents to make informed child care decisions by requiring that early learning providers cited for health and safety violations notify parents regarding violations. Lastly, while the bill increases health and safety requirements for some providers, a number of the bill's provisions reduce regulatory burdens on state agencies and child care providers.

The bill makes several terminology changes in statutory sections amended by the bill:

- The "School Readiness program" is changed to the "Child Care and Development program."
- References to "school readiness" are changed to "child care and development."
- "Family day care home" is changed to "family child care home."
- References to "family day care" are changed to "family child care."

The Division of Law Revision and Information is directed to prepare a reviser's bill for the 2015 general session to change these terms anywhere else they appear in the Florida Statutes.

***Existing terminology is used in the Effect of Proposed Changes section of this bill analysis to avoid confusion.***

### Health, Safety, and Welfare

The bill maintains eligibility to offer the School Readiness program for public schools, licensed child care facilities, licensed FDCHs and LFCCHs, license exempt faith-based providers, and nonpublic schools. The bill removes registered FDCHs and informal providers as eligible School Readiness program providers.

The bill maintains eligibility to offer the VPK school year program for licensed child care facilities, licensed FDCHs, LFCCHs, license-exempt faith-based providers, and nonpublic schools and the existing requirement that unlicensed providers either be accredited by an authorized accreditor or hold a Gold Seal Quality Care Designation. U.S. Department of Defense (DOD)-certified child development centers operating on military installations are added as a new class of eligible private provider.

The bill requires each School Readiness or VPK program provider to comply with basic health and safety standards and specifies the manner for achieving such compliance. For licensed child care providers, this requirement is met through compliance with applicable licensing standards. For public schools, this requirement is met through compliance with existing public school health and safety requirements. The bill does not specify standards for child development centers operating on military bases. Health and safety in these centers is regulated according to standards adopted by DOD, which, among other things, require centers to be inspected at least four times annually.<sup>65</sup>

Most significantly, license-exempt faith-based providers and nonpublic schools must demonstrate substantial compliance with specified child care licensing standards, i.e, standards related to supervision, transportation, access, health, food and nutrition, personnel screening, and records. The bill grants DCF and local licensing agencies, as applicable, authority to inspect any portion of a license-exempt provider's or a nonpublic school's facility in which early learning programs are delivered.

The bill authorizes DCF or a local licensing agency, as applicable, to issue a certificate of substantial compliance to license-exempt faith-based providers and nonpublic schools that offer the VPK or School Readiness programs. Such a school or provider must obtain the certificate in order to offer the programs. The school or provider must pass a site inspection prior to issuance of the certificate. The certificate is valid for one year and must be renewed annually.

The statutory definition of "substantial compliance" is revised to apply directly to license-exempt faith-based and nonpublic school providers of state-funded early learning programs. Under the bill, "substantial compliance" means "that level of adherence to adopted standards which is sufficient to safeguard the health, safety, and well-being of all children under care." These new requirements may not be applied in a manner that limits or excludes the curriculum provided by a faith-based provider or nonpublic school. The substantial compliance requirement may not be construed to authorize the state, its officers, local licensing agencies, or any ELC to exceed the regulatory authority granted by the bill.

A public school or private School Readiness program provider and private VPK program provider must be denied program eligibility if it has been cited for a class I violation in the 12 months prior to seeking eligibility. An existing provider that is cited for a class I violation may not have its eligibility renewed for a period of 12 months. These requirements do not apply if OEL determines that the violation was reported by the provider and the employee responsible for the violation was terminated or the violation was corrected by the provider. Additionally, such providers must notify parents electronically or in writing when cited for a Class I violation. Notice of Class I violations must be provided within 24 hours of receiving the citation. The bill also requires providers to post citations that result in disciplinary action and inspection reports on the premises in an area visible to parents. Such citations must remain posted for a period of one year. Each inspection report must remain posted until the next inspection report is available, at which time the provider must post the new report. OEL is directed to develop and implement best practices for providing parental notifications, including those related to violations, in a parent's native language if the parent's native language is a language other than English.

The bill prohibits the owner of a child care facility, FDCH, or LFCCH from transferring ownership to a relative if the owner has had his or her license suspended or revoked by DCF, has received notice from DCF that reasonable cause exists to suspend or revoke the license, or has been placed on the U.S. Department of Agriculture National Disqualified list. The bill defines "relative" to mean father, mother, son, daughter, grandfather, grandmother, brother, sister, uncle, aunt, cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

The bill revises the requirement that licensed child care facilities and FDCHs and LFCCHs provide influenza information to parents during August and September each year. Instead, such information must be provided to parents upon enrollment of the child. Thus, children who enroll after August or September will get this information.

#### Child Care Personnel and Instructors

The bill revises several training requirements and employment qualifications applicable to child care personnel employed by early learning program providers:

- Beginning January 1, 2016, child care personnel employed by a School Readiness provider or private VPK provider must be at least 18 years of age and hold a high school diploma (or equivalent).
- Beginning January 1, 2015, School Readiness provider personnel and private VPK program instructors must complete training in infant and child first aid and CPR within 30 days of employment. Individuals hired on or after January 1, 2015, must complete this training, as a condition of employment, within 30 days of employment.



- School Readiness and VPK program personnel who supervise children must complete the applicable DCF developmentally appropriate practices course within 30 days of being assigned to supervise an age group of children for which such course has not been completed.
- OEL must develop online training on the School Readiness program performance standards and provider personnel must complete the training.

The new minimum age and diploma requirements will not apply to personnel who are not responsible for supervision of children or under direct supervision by a qualified staff member. The CPR/First Aid requirement will not apply to personnel who are not responsible for supervision of children. The bill's changes to training requirements increase the likelihood that individuals caring for children in state-funded early learning programs are able to respond to emergencies that threaten child safety; have basic reading, writing, and speaking ability necessary to teach early literacy skills; and receive training aligned to the age and needs of children served.

Several bill provisions affect all child care personnel while others impact personnel employed by a specified provider classification. Failure to report child abuse is added as an employment disqualifier for all child care personnel statewide, including School Readiness and VPK program personnel and instructors. The bill eliminates Level 2 screening for public school provider employees and instead subjects them to the background screening requirements applicable to public school instructional personnel.

The bill also clarifies the process child care employers must use to conduct employment history checks on prospective employees. Before employing child care personnel, the employer must conduct employment history checks of each of the personnel's previous employers and document the findings. If unable to contact a previous employer, the employer must document efforts to contact the employer.

The bill adds a requirement that introductory child care and continuing education trainings for personnel serving in licensed child care facilities, FDCHs, and LFCCHs include instruction regarding emergent numeracy skills. This change better aligns this training with skills taught in the School Readiness and VPK programs.

### Early Learning Program and Child Care Administration

The bill requires VPK program providers to provide parents information about the provider's program such as child development information, expectations for parent engagement, the daily schedule, and the attendance policy. School Readiness and VPK program provider attendance policies must include procedures for contacting a parent on the second consecutive day a child is absent for which the reason is unknown. The bill expands eligibility for the School Readiness program currently granted to children with disabilities aged three to five to include such children age birth to five.

The bill provides that a charter school that is authorized to provide the VPK program in its charter is part of the school district's VPK program and subject to district oversight. Charter schools not so authorized may still provide the VPK program, but must do so as a private provider.

The bill reduces regulatory burdens on child care providers and state agencies by:

- Authorizing ELCs to allow private providers to determine child eligibility for and enroll children in the VPK program. These providers must maintain enrollment records and ELCs may audit the records in order to detect fraud or errors.
- Requiring ELCs, OEL, and DCF to cooperate in reducing paperwork and duplicative regulation regarding the VPK program.
- Clarifying that worker's and unemployment compensation requirements do not apply to early learning providers who are exempt under state and federal law.
- Eliminating the requirement that School Readiness program providers add the local ELC as an additional insured on its liability insurance policy.

- Expanding DCF's authority to conduct abbreviated inspections to include FDCHs and LFCCHs. These inspections currently apply only to licensed child care facilities with no class 1 or 2 violations in a two year period.

The bill specifically authorizes OEL to hire a general counsel and inspector general. The duties of the Early Learning Advisory Council (ELAC)<sup>66</sup> are revised to specify that it must provide written input to OEL's executive director regarding early learning program administration, efficient use of funding, professional development, and ELC plans. The bill also charges the executive director with responsibility to call ELAC meetings and determine appropriate levels of administrative support for ELAC.

The bill requires OEL to conduct a two-year pilot project to study the impact of assessing the kindergarten readiness of VPK program participants who are English Language Learners (ELL) in both English and Spanish. Under the pilot, OEL will administer the Florida Assessments for Instruction in Reading and an appropriate assessment in Spanish. OEL must examine the results of the assessments and report its findings annually to the Governor, President of the Senate, and Speaker of the House of Representatives. The purpose of the pilot project is to better ascertain the capabilities and kindergarten readiness of ELLs, which may otherwise be masked by their lack of English proficiency.

The bill also contains several glitch fixes requested by OEL, which, generally speaking, align state law with federal law, the state CCDF plan, or existing administrative practices. Additionally, the bill authorizes ELCs to use School Readiness program quality improvement funds to provide financial support to providers and their staff for, among other things, obtaining a license or accreditation and CPR and first aid training.

#### Family Day Care Homes and Large Family Child Care Homes

The bill requires each FDCH to conspicuously post its license or registration on the premises in an area viewable by parents. The bill also repeals obsolete provisions requiring DCF to conduct a media campaign to inform the public regarding registration and other operational requirements related to FDCHs. This requirement dates back to early codification of FDCHs and has been fulfilled.<sup>67</sup>

The bill codifies the training requirements in DCF rule for licensed FDCH substitutes, which differentiate between substitutes who work 40 hours or more per month from those who work less. The bill requires substitutes in registered FDCHs to complete the same training as substitutes in licensed FDCHs. Currently, there are no training requirements for such substitutes.

Current law provides special benefits to FDCHs regarding zoning, property insurance, and utility rates that are not provided to LFCCHs, likely because LFCCHs were codified after these provisions were enacted.<sup>68</sup> The law prohibits:

- Counties and municipalities from requiring that FDCHs be commercially zoned;
- Property and casualty insurers from canceling residential insurance coverage solely because the residence operates as a FDCH; and
- Utilities from charging FDCHs commercial utility rates.<sup>69</sup>

The bill extends these zoning, insurance, and utility rate benefits to LFCCHs.

<sup>66</sup> Section 1002.77(1), F.S.

<sup>67</sup> See s. 402.313(11), F.S.

<sup>68</sup> Compare, e.g., s. 15, ch. 99-304, L.O.F. (LFCCH statute enacted 1999.) with s.3, ch. 86-87, L.O.F. (FDCH county and municipal zoning exceptions enacted 1986.).

<sup>69</sup> See ss. 125.0109, 166.0445, 627.70161, and 402.313(12), F.S.

**B. SECTION DIRECTORY:**

**Section 1.** Creates an unnumbered section of law directing the Division of Law Revision and Information to change the name of the “School Readiness Program” to the “Child Care and Development Program” and the term “family day care home” to “family child care home.”

**Section 2.** Amends s. 125.0109, F.S., relating to family day care homes; local zoning regulation (counties).

**Section 3.** Amends s. 166.0445, F.S., relating to family day care homes; local zoning regulation (municipalities).

**Section 4.** Amends s. 402.302, F.S., relating to child care definitions.

**Section 5.** Amends s. 402.3025, F.S., relating to public and nonpublic schools.

**Section 6.** Amends s. 402.305, F.S., relating to licensing standards; child care facilities.

**Section 7.** Creates s. 402.3085, F.S., relating to a certificate of substantial compliance with minimum child care standards.

**Section 8.** Amends s. 402.311, F.S., relating to inspection.

**Section 9.** Amends s. 402.3115, F.S., relating to elimination of duplicative and unnecessary inspections; abbreviated inspections.

**Section 10.** Amends s. 402.313, F.S., relating to family day care homes.

**Section 11.** Amends s. 402.3131, F.S., relating to large family child care homes.

**Section 12.** Amends s. 402.316, F.S., relating to licensing exemptions for faith-based child care.

**Section 13.** Amends s. 627.70161, F.S., relating to residential property insurance coverage; family day care homes.

**Section 14.** Amends s. 1001.213, F.S., relating to Office of Early Learning.

**Section 15.** Amends s. 1002.53, F.S., relating to Voluntary Prekindergarten Education Program; eligibility and enrollment.

**Section 16.** Amends s. 1002.55, F.S., relating to school-year prekindergarten program delivered by private prekindergarten providers.

**Section 17.** Amends s. 1002.59, F.S., relating to emergent literacy and performance standards.

**Section 18.** Amends s. 1002.61, F.S., relating to summer prekindergarten program delivered by public schools and private prekindergarten providers.

**Section 19.** Amends s. 1002.63, F.S., relating to school-year prekindergarten program delivered by public schools.

**Section 20.** Amends s. 1002.71, F.S., relating to funding; financial and attendance reporting.

**Section 21.** Amends s. 1002.75, F.S., relating to Office of Early Learning; VPK program powers and duties.

**Section 22.** Amends s. 1002.77, F.S., relating to Florida Early Learning Advisory Council.

**Section 23.** Amends s. 1002.81, F.S., relating to School Readiness program definitions.

**Section 24.** Amends s. 1002.82, F.S., relating to Office of Early Learning; School Readiness program powers and duties.

**Section 25.** Amends s. 1002.84, F.S., relating to early learning coalitions; school readiness powers and duties.

**Section 26.** Amends s. 1002.87, F.S., relating to School Readiness program; eligibility and enrollment.

**Section 27.** Amends s. 1002.88, F.S., relating to School Readiness program provider standards; eligibility to deliver the school readiness program.

**Section 28.** Amends s. 1002.89, F.S., relating to School Readiness program; funding.

**Section 29.** Amends s. 1002.91, F.S., relating to investigations of fraud or overpayment; penalties.

**Section 30.** Amends s. 1002.94, F.S., relating to Child Care Executive Partnership Program.

**Section 31.** Creates an unnumbered section of law directing OEL to conduct a pilot project to study the impact of assessing the early literacy skills of ELLs in both English and Spanish.

**Section 32.** Provides an effective date of July 1, 2014.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

Consistent with DCF's current authorization to collect fees for the licensure of child care facilities, it's expected an additional \$70,800 in revenue may be generated to mitigate the expenditure impact of the bill.

#### 2. Expenditures:

The bill expands DCF's workload by requiring the inspection of license-exempt faith-based providers and nonpublic schools. It is expected that DCF will need an additional 18.00 full-time equivalent positions and \$1,046,284 to address these additional regulatory functions as outlined in the following chart<sup>70</sup>:

Position and FTE Required	Recurring FTE Costs	Nonrecurring FTE Costs	FY 2014-15 Fiscal Impact
Licensing Counselor - 14	\$ 804,485	\$ 3,773	
Licensing Counselor Supervisor - 2	\$ 130,931	\$ 3,773	
Senior Attorney - 2	\$ 170,349	\$ 3,773	
<b>TOTAL FTE - 18</b>	<b>\$ 1,105,765</b>		
LESS: Licensing Fee Revenue	(\$70,800)		
<b>TOTAL Cost to DCF</b>	<b>\$1,034,965</b>	<b>\$ 11,319</b>	<b>\$ 1,046,284</b>

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

<sup>70</sup> Based upon DCF's bill analysis dated February 27, 2014, and on file with staff of the Health Care Appropriations Committee

1. Revenues:

None.

2. Expenditures:

The bill extends to LFCCHs the protections that FDCHs currently receive regarding zoning requirements, insurance coverage, and utility rates. Under the bill:

- Local governments are prohibited from requiring that LFCCHs be commercially zoned;
- Property and casualty insurers are prohibited from canceling residential insurance coverage because the residence operates as a LFCCH; and
- Utilities are prohibited from charging LFCCHs commercial utility rates.

The extent to which local governments require LFCCHs to be commercially zoned, property insurers require LFCCHs to obtain additional coverage, and utility companies charge LFCCHs commercial rates is unknown. In order to qualify for licensure as a LFCCH, the home must operate as a licensed FDCH in the two years prior to seeking licensure as a LFCCH. It appears that most local governments, insurers, and utility companies do not treat LFCCHs any differently than FDCHs. There are currently 2,941 licensed FDCHs and 429 LFCCHs operating in Florida. Given the small number of LFCCHs that will receive these protections under the bill, the fiscal impact on counties, municipalities, property insurers, and utility companies is likely minimal.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The bill authorizes DCF to charge an inspection fee to nonpublic schools and license-exempt faith-based providers of state-funded early learning programs in order to enforce substantial compliance with minimum health and safety standards. The fee must be sufficient to cover costs and may not exceed that charged for child care licensure. Currently, the licensing fee for a child care facility is \$1 per child, based on the licensed capacity of the facility, with a minimum fee of \$25 and a maximum fee of \$100 per facility.<sup>71</sup>

Protections regarding zoning requirements, insurance coverage, and utility rates provided to LFCCHs may result in cost savings. Other bill provisions with positive financial implications on private sector child care providers include:

- Clarifying that worker's and unemployment compensation requirements do not apply to early learning providers who are exempt under state and federal law.
- Eliminating the requirement that School Readiness program providers add the local ELC as an additional insured on its liability insurance policy.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

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<sup>71</sup> Section 402.315(3)(a), F.S.  
STORAGE NAME: h7069b.APC.DOCX  
DATE: 3/28/2014

## B. RULE-MAKING AUTHORITY:

The bill authorizes DCF to adopt rules to define and enforce substantial compliance with minimum child care health and safety standards by license-exempt faith-based child care providers and nonpublic schools. This includes the adoption of minimum standards and procedures for inspection and disciplinary actions.

The bill requires DCF to adopt rules establishing criteria and procedures for abbreviated inspections and inspection schedules which provide for both announced and unannounced inspections

## C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 20, 2014, the Education Committee adopted three amendments and reported the proposed committee bill favorably. The amendments added provisions:

- Providing that School Readiness program providers with class I violation must be denied eligibility to offer the program.
- Requiring OEL to develop and implement best practices for providing parental notifications in a parent's native language to a parent whose native language is a language other than English.
- Establishing a two-year pilot project to study the impact of assessing the kindergarten readiness of English Language Learners participating in the VPK program in both English and Spanish.

On March 24, 2014, the Education Appropriations Subcommittee adopted eight amendments and reported the bill favorably as a committee substitute. The amendments added provisions:

- Requesting that the Division of Law Revision and Information change the phrase "family day care" to "family child care."
- Limiting the regulatory authority of local licensing agencies to enforce substantial compliance with minimum child care standards by nonpublic schools and licensed-exempt faith-based child care providers participating in the VPK program or School Readiness program.
- Authorizing DCF and local licensing agencies, as applicable, to issue a certificate of substantial compliance to nonpublic schools and license-exempt faith-based providers participating in the VPK program or School Readiness program.
- Authorizing OEL to allow VPK program or School Readiness program providers that are cited with a Class I violation to remain eligible to offer the programs if they self-reported and corrected the violation.

The amendments removed provisions revising the Rilya Wilson Act and those requiring FDCH substitutes to complete the same training requirements as the operator. Instead, the amendments codified the training requirements in DCF rule for licensed FDCH substitutes, which differentiate between substitutes who work 40 hours or more per month from those who work less. The amendments also required substitutes in registered FDCHs to complete the same training as substitutes in licensed FDCHs.

This bill analysis is drafted to the committee substitute, as passed by the Education Appropriations Subcommittee.

1                               A bill to be entitled  
2       An act relating to early learning and child care  
3       regulation; changing the term "school readiness  
4       program" to "child care and development program," the  
5       term "school readiness" to "child care and  
6       development," the term "family day care home" to  
7       "family child care home," and the term "family day  
8       care" to "family child care"; providing a directive to  
9       the Division of Law Revision and Information; amending  
10       ss. 125.0109 and 166.0445, F.S.; including large  
11       family child care homes in local zoning regulation  
12       requirements; amending s. 402.302, F.S.; revising the  
13       definition of the term "substantial compliance";  
14       amending s. 402.3025, F.S.; providing requirements for  
15       nonpublic schools delivering certain Voluntary  
16       Prekindergarten Education (VPK) and child care and  
17       development programs; amending s. 402.305, F.S.;  
18       revising certain minimum standards for child care  
19       facilities; authorizing the Department of Children and  
20       Families to adopt rules for compliance by certain  
21       programs not licensed by the department; creating s.  
22       402.3085, F.S.; authorizing the Department of Children  
23       and Families or local licensing agencies to issue a  
24       certificate of substantial compliance with minimum  
25       child care licensing standards; requiring certain  
26       providers to obtain the certificate in order to offer

27 VPK or child care and development programs; amending  
 28 s. 402.311, F.S.; providing for inspection of programs  
 29 regulated by the department; amending s. 402.3115,  
 30 F.S.; providing for abbreviated inspections of  
 31 specified child care homes; requiring rulemaking;  
 32 amending s. 402.313, F.S.; revising provisions for  
 33 licensure, registration, and operation of family day  
 34 care homes, including requirements for staffing,  
 35 training, and background screening; amending s.  
 36 402.3131, F.S.; revising requirements for large family  
 37 child care homes; amending s. 402.316, F.S., relating  
 38 to exemptions from child care facility licensing  
 39 standards; requiring a child care facility operating  
 40 as a provider of certain VPK or child care programs to  
 41 comply with minimum standards; providing penalties for  
 42 failure to disclose or for use of certain information;  
 43 requiring a fee for inspection and compliance  
 44 activities; amending s. 627.70161, F.S.; revising  
 45 restrictions on residential property insurance  
 46 coverage to include coverage for large family child  
 47 care homes; amending s. 1001.213, F.S.; providing  
 48 additional duties of the Office of Early Learning;  
 49 amending s. 1002.53, F.S.; revising requirements for  
 50 application and determination of eligibility to enroll  
 51 in the VPK program; amending s. 1002.55, F.S.;

52 revising requirements for a school-year



53 |       prekindergarten program delivered by a private  
54 |       prekindergarten provider, including requirements for  
55 |       providers, instructors, and child care personnel;  
56 |       providing requirements in the case of provider  
57 |       violations; amending s. 1002.59, F.S.; correcting a  
58 |       cross-reference; amending ss. 1002.61 and 1002.63,  
59 |       F.S.; providing requirements for a charter school  
60 |       delivering a summer prekindergarten program or a  
61 |       school-year prekindergarten program; revising  
62 |       employment requirements and educational credentials of  
63 |       certain instructional personnel; amending s. 1002.71,  
64 |       F.S.; revising information that must be reported to  
65 |       parents; amending s. 1002.75, F.S.; revising  
66 |       provisions included in the standard statewide VPK  
67 |       program provider contract; amending s. 1002.77, F.S.;  
68 |       revising the purpose and meetings of the Florida Early  
69 |       Learning Advisory Council; amending s. 1002.81, F.S.;  
70 |       revising certain school readiness program definitions;  
71 |       amending s. 1002.82, F.S.; revising powers and duties  
72 |       of the Office of Early Learning; revising provisions  
73 |       included in the standard statewide school readiness  
74 |       program provider contract; amending s. 1002.84, F.S.;  
75 |       revising powers and duties of early learning  
76 |       coalitions; amending s. 1002.87, F.S.; revising  
77 |       student eligibility and enrollment requirements for  
78 |       the school readiness program; amending s. 1002.88,

79 F.S.; revising eligibility requirements for delivering  
 80 the school readiness program; providing requirements  
 81 in the case of provider violations; providing child  
 82 care personnel requirements; amending s. 1002.89,  
 83 F.S.; revising the use of funds for the school  
 84 readiness program; amending s. 1002.91, F.S.;  
 85 prohibiting an early learning coalition from  
 86 contracting with specified persons; amending s.  
 87 1002.94, F.S.; revising establishment of a community  
 88 child care task force by an early learning coalition;  
 89 requiring the Office of Early Learning to conduct a  
 90 pilot project to study the impact of assessing the  
 91 early literacy skills of certain VPK program  
 92 participants; requiring reports to the Governor and  
 93 Legislature; providing an effective date.

94

95 Be It Enacted by the Legislature of the State of Florida:

96

97 Section 1. The Division of Law Revision and Information is  
 98 requested to prepare a reviser's bill for the 2015 Regular  
 99 Session of the Legislature to change the term "school readiness  
 100 program" to "child care and development program," the term  
 101 "school readiness" to "child care and development," the term  
 102 "family day care home" to "family child care home," and the term  
 103 "family day care" to "family child care" wherever the terms  
 104 appear in the Florida Statutes.

105 Section 2. Section 125.0109, Florida Statutes, is amended  
 106 to read:

107 125.0109 Family child day care homes and large family  
 108 child care homes; local zoning regulation.—The operation of a  
 109 residence as a family child day care home or large family child  
 110 care home, as defined in s. 402.302, licensed or registered  
 111 pursuant to s. 402.313 or s. 402.3131, as applicable, ~~as defined~~  
 112 ~~by law, registered or licensed with the Department of Children~~  
 113 ~~and Family Services~~ shall constitute a valid residential use for  
 114 purposes of any local zoning regulations, and no such regulation  
 115 shall require the owner or operator of such family child day  
 116 care home or large family child care home to obtain any special  
 117 exemption or use permit or waiver, or to pay any special fee in  
 118 excess of \$50, to operate in an area zoned for residential use.

119 Section 3. Section 166.0445, Florida Statutes, is amended  
 120 to read:

121 166.0445 Family child day care homes and large family  
 122 child care homes; local zoning regulation.—The operation of a  
 123 residence as a family child day care home or large family child  
 124 care home, as defined in s. 402.302, licensed or registered  
 125 pursuant to s. 402.313 or s. 402.3131, as applicable, ~~as defined~~  
 126 ~~by law, registered or licensed with the Department of Children~~  
 127 ~~and Family Services~~ shall constitute a valid residential use for  
 128 purposes of any local zoning regulations, and no such regulation  
 129 shall require the owner or operator of such family child day  
 130 care home or large family child care home to obtain any special

131 exemption or use permit or waiver, or to pay any special fee in  
 132 excess of \$50, to operate in an area zoned for residential use.

133 Section 4. Subsections (8) and (17) of section 402.302,  
 134 Florida Statutes, are amended to read:

135 402.302 Definitions.—As used in this chapter, the term:

136 (8) "Family child ~~day~~ care home" means an occupied  
 137 residence in which child care is regularly provided for children  
 138 from at least two unrelated families and which receives a  
 139 payment, fee, or grant for any of the children receiving care,  
 140 whether or not operated for profit. Household children under 13  
 141 years of age, when on the premises of the family child ~~day~~ care  
 142 home or on a field trip with children enrolled in child care,  
 143 shall be included in the overall capacity of the licensed home.  
 144 A family child ~~day~~ care home shall be allowed to provide care  
 145 for one of the following groups of children, which shall include  
 146 household children under 13 years of age:

147 (a) A maximum of four children from birth to 12 months of  
 148 age.

149 (b) A maximum of three children from birth to 12 months of  
 150 age, and other children, for a maximum total of six children.

151 (c) A maximum of six preschool children if all are older  
 152 than 12 months of age.

153 (d) A maximum of 10 children if no more than 5 are  
 154 preschool age and, of those 5, no more than 2 are under 12  
 155 months of age.

156 (17) "Substantial compliance" means, for purposes of

157 | programs operating under s. 1002.55, s. 1002.61, or s. 1002.88,  
 158 | ~~that level of adherence to adopted standards~~ which is sufficient  
 159 | to safeguard the health, safety, and well-being of all children  
 160 | under care. The standards must address requirements found in s.  
 161 | 402.305 and are limited to supervision, transportation, access,  
 162 | health-related requirements, food and nutrition, personnel  
 163 | screening, records, and enforcement of these standards. The  
 164 | standards must not limit or exclude the curriculum provided by a  
 165 | faith-based provider or nonpublic school. Substantial compliance  
 166 | ~~is greater than minimal adherence but not to the level of~~  
 167 | ~~absolute adherence. Where a violation or variation is identified~~  
 168 | ~~as the type which impacts, or can be reasonably expected within~~  
 169 | ~~90 days to impact, the health, safety, or well-being of a child,~~  
 170 | ~~there is no substantial compliance.~~

171 | Section 5. Paragraphs (d) and (e) of subsection (2) of  
 172 | section 402.3025, Florida Statutes, are amended to read:

173 | 402.3025 Public and nonpublic schools.—For the purposes of  
 174 | ss. 402.301-402.319, the following shall apply:

175 | (2) NONPUBLIC SCHOOLS.—

176 | (d)1. Nonpublic schools delivering programs under s.  
 177 | 1002.55, s. 1002.61, or s. 1002.88 ~~Programs for children who are~~  
 178 | ~~at least 3 years of age, but under 5 years of age,~~ which are not  
 179 | licensed under ss. 402.301-402.319 shall substantially comply  
 180 | with the minimum child care standards adopted ~~promulgated~~  
 181 | pursuant to ss. 402.305-402.3057.

182 | 2. The department or local licensing agency shall enforce

183 compliance with such standards, where possible, to eliminate or  
 184 minimize duplicative inspections or visits by staff enforcing  
 185 the minimum child care standards and staff enforcing other  
 186 standards under the jurisdiction of the department.

187 3. The department or local licensing agency may inspect  
 188 programs operating under this paragraph and pursue  
 189 administrative or judicial action under ss. 402.310-402.312  
 190 against nonpublic schools operating under this paragraph  
 191 ~~commence and maintain all proper and necessary actions and~~  
 192 ~~proceedings for any or all of the following purposes:~~

193 a. to protect the health, sanitation, safety, and well-  
 194 being of all children under care.

195 b. ~~To enforce its rules and regulations.~~

196 c. ~~To use corrective action plans, whenever possible, to~~  
 197 ~~attain compliance prior to the use of more restrictive~~  
 198 ~~enforcement measures.~~

199 d. ~~To make application for injunction to the proper~~  
 200 ~~circuit court, and the judge of that court shall have~~  
 201 ~~jurisdiction upon hearing and for cause shown to grant a~~  
 202 ~~temporary or permanent injunction, or both, restraining any~~  
 203 ~~person from violating or continuing to violate any of the~~  
 204 ~~provisions of ss. 402.301-402.319. Any violation of this section~~  
 205 ~~or of the standards applied under ss. 402.305-402.3057 which~~  
 206 ~~threatens harm to any child in the school's programs for~~  
 207 ~~children who are at least 3 years of age, but are under 5 years~~  
 208 ~~of age, or repeated violations of this section or the standards~~

209 ~~under ss. 402.305-402.3057, shall be grounds to seek an~~  
 210 ~~injunction to close a program in a school.~~

211 ~~e. To impose an administrative fine, not to exceed \$100,~~  
 212 ~~for each violation of the minimum child care standards~~  
 213 ~~promulgated pursuant to ss. 402.305-402.3057.~~

214 4. It is a misdemeanor of the first degree, punishable as  
 215 provided in s. 775.082 or s. 775.083, for any person willfully,  
 216 knowingly, or intentionally to:

217 a. Fail, by false statement, misrepresentation,  
 218 impersonation, or other fraudulent means, to disclose in any  
 219 required written documentation for exclusion from licensure  
 220 pursuant to this section a material fact used in making a  
 221 determination as to such exclusion; or

222 b. Use information from the criminal records obtained  
 223 under s. 402.305 or s. 402.3055 for any purpose other than  
 224 screening that person for employment as specified in those  
 225 sections or release such information to any other person for any  
 226 purpose other than screening for employment as specified in  
 227 those sections.

228 5. It is a felony of the third degree, punishable as  
 229 provided in s. 775.082, s. 775.083, or s. 775.084, for any  
 230 person willfully, knowingly, or intentionally to use information  
 231 from the juvenile records of any person obtained under s.  
 232 402.305 or s. 402.3055 for any purpose other than screening for  
 233 employment as specified in those sections or to release  
 234 information from such records to any other person for any

235 purpose other than screening for employment as specified in  
 236 those sections.

237 6. The inclusion of nonpublic schools within options  
 238 available under ss. 1002.55, 1002.61, and 1002.88 does not  
 239 expand the regulatory authority of the state, its officers, any  
 240 local licensing agency, or any early learning coalition to  
 241 impose any additional regulation of nonpublic schools beyond  
 242 those reasonably necessary to enforce requirements expressly set  
 243 forth in this paragraph.

244 ~~(e) The department and the nonpublic school accrediting~~  
 245 ~~agencies are encouraged to develop agreements to facilitate the~~  
 246 ~~enforcement of the minimum child care standards as they relate~~  
 247 ~~to the schools which the agencies accredit.~~

248 Section 6. Paragraphs (a) and (d) of subsection (2),  
 249 paragraph (b) of subsection (9), and subsections (10) and (18)  
 250 of section 402.305, Florida Statutes, are amended, and  
 251 subsection (19) is added to that section, to read:

252 402.305 Licensing standards; child care facilities.—

253 (2) PERSONNEL.—Minimum standards for child care personnel  
 254 shall include minimum requirements as to:

255 (a) Good moral character based upon screening, according  
 256 to the level 2 screening requirements of. ~~This screening shall~~  
 257 ~~be conducted as provided in chapter 435, using the level 2~~  
 258 ~~standards for screening set forth in that chapter.~~ In addition  
 259 to the offenses listed in s. 435.04, all child care personnel  
 260 required to undergo background screening pursuant to this



261 section must not have an arrest awaiting final disposition for,  
 262 must not have been found guilty of, regardless of adjudication,  
 263 or entered a plea of nolo contendere or guilty to, and must not  
 264 have been adjudicated delinquent and the record not have been  
 265 sealed or expunged for an offense specified in s. 39.205. Before  
 266 employing child care personnel subject to this section, the  
 267 employer must conduct employment history checks of each of the  
 268 personnel's previous employers and document the findings. If  
 269 unable to contact a previous employer, the employer must  
 270 document efforts to contact the employer.

271       (d) Minimum training requirements for child care  
 272 personnel.

273       1. Such minimum standards for training shall ensure that  
 274 all child care personnel take an approved 40-clock-hour  
 275 introductory course in child care, which course covers at least  
 276 the following topic areas:

277       a. State and local rules and regulations which govern  
 278 child care.

279       b. Health, safety, and nutrition.

280       c. Identifying and reporting child abuse and neglect.

281       d. Child development, including typical and atypical  
 282 language, cognitive, motor, social, and self-help skills  
 283 development.

284       e. Observation of developmental behaviors, including using  
 285 a checklist or other similar observation tools and techniques to  
 286 determine the child's developmental age level.

287 f. Specialized areas, including computer technology for  
 288 professional and classroom use and numeracy, early literacy, and  
 289 language development of children from birth to 5 years of age,  
 290 as determined by the department, for owner-operators and child  
 291 care personnel of a child care facility.

292 g. Developmental disabilities, including autism spectrum  
 293 disorder and Down syndrome, and early identification, use of  
 294 available state and local resources, classroom integration, and  
 295 positive behavioral supports for children with developmental  
 296 disabilities.

297  
 298 Within 90 days after employment, child care personnel shall  
 299 begin training to meet the training requirements. Child care  
 300 personnel shall successfully complete such training within 1  
 301 year after the date on which the training began, as evidenced by  
 302 passage of a competency examination. Successful completion of  
 303 the 40-clock-hour introductory course shall articulate into  
 304 community college credit in early childhood education, pursuant  
 305 to ss. 1007.24 and 1007.25. Exemption from all or a portion of  
 306 the required training shall be granted to child care personnel  
 307 based upon educational credentials or passage of competency  
 308 examinations. Child care personnel possessing a 2-year degree or  
 309 higher that includes 6 college credit hours in early childhood  
 310 development or child growth and development, or a child  
 311 development associate credential or an equivalent state-approved  
 312 child development associate credential, or a child development

313 associate waiver certificate shall be automatically exempted  
 314 from the training requirements in sub-subparagraphs b., d., and  
 315 e.

316 2. The introductory course in child care shall stress, to  
 317 the extent possible, an interdisciplinary approach to the study  
 318 of children.

319 3. The introductory course shall cover recognition and  
 320 prevention of shaken baby syndrome; prevention of sudden infant  
 321 death syndrome; recognition and care of infants and toddlers  
 322 with developmental disabilities, including autism spectrum  
 323 disorder and Down syndrome; and early childhood brain  
 324 development within the topic areas identified in this paragraph.

325 4. On an annual basis in order to further their child care  
 326 skills and, if appropriate, administrative skills, child care  
 327 personnel who have fulfilled the requirements for the child care  
 328 training shall be required to take an additional 1 continuing  
 329 education unit of approved inservice training, or 10 clock hours  
 330 of equivalent training, as determined by the department.

331 5. Child care personnel shall be required to complete 0.5  
 332 continuing education unit of approved training or 5 clock hours  
 333 of equivalent training, as determined by the department, in  
 334 numeracy, early literacy, and language development of children  
 335 from birth to 5 years of age one time. The year that this  
 336 training is completed, it shall fulfill the 0.5 continuing  
 337 education unit or 5 clock hours of the annual training required  
 338 in subparagraph 4.

339           6. Procedures for ensuring the training of qualified child  
 340 care professionals to provide training of child care personnel,  
 341 including onsite training, shall be included in the minimum  
 342 standards. It is recommended that the state community child care  
 343 coordination agencies (central agencies) be contracted by the  
 344 department to coordinate such training when possible. Other  
 345 district educational resources, such as community colleges and  
 346 career programs, can be designated in such areas where central  
 347 agencies may not exist or are determined not to have the  
 348 capability to meet the coordination requirements set forth by  
 349 the department.

350           7. Training requirements shall not apply to certain  
 351 occasional or part-time support staff, including, but not  
 352 limited to, swimming instructors, piano teachers, dance  
 353 instructors, and gymnastics instructors.

354           8. The department shall evaluate or contract for an  
 355 evaluation for the general purpose of determining the status of  
 356 and means to improve staff training requirements and testing  
 357 procedures. The evaluation shall be conducted every 2 years. The  
 358 evaluation shall include, but not be limited to, determining the  
 359 availability, quality, scope, and sources of current staff  
 360 training; determining the need for specialty training; and  
 361 determining ways to increase inservice training and ways to  
 362 increase the accessibility, quality, and cost-effectiveness of  
 363 current and proposed staff training. The evaluation methodology  
 364 shall include a reliable and valid survey of child care

365 personnel.

366 9. The child care operator shall be required to take basic  
 367 training in serving children with disabilities within 5 years  
 368 after employment, either as a part of the introductory training  
 369 or the annual 8 hours of inservice training.

370 (9) ADMISSIONS AND RECORDKEEPING.—

371 (b) ~~During the months of August and September of each~~  
 372 ~~year,~~ Each child care facility shall provide parents of children  
 373 enrolling ~~enrolled~~ in the facility detailed information  
 374 regarding the causes, symptoms, and transmission of the  
 375 influenza virus in an effort to educate those parents regarding  
 376 the importance of immunizing their children against influenza as  
 377 recommended by the Advisory Committee on Immunization Practices  
 378 of the Centers for Disease Control and Prevention.

379 (10) TRANSPORTATION SAFETY.—Minimum standards shall  
 380 include requirements for child restraints or seat belts in  
 381 vehicles used by child care facilities, ~~and~~ large family child  
 382 care homes, and family child care homes to transport children,  
 383 requirements for annual inspections of the vehicles, limitations  
 384 on the number of children in the vehicles, and accountability  
 385 for children being transported.

386 (18) TRANSFER OF OWNERSHIP.—

387 (a) One week before ~~prior to~~ the transfer of ownership of  
 388 a child care facility, ~~or~~ family child ~~day~~ care home, or large  
 389 family child care home, the transferor shall notify the parent  
 390 or caretaker of each child of the impending transfer.

391        (b) The owner of a child care facility, family child care  
 392 home, or large family child care home may not transfer ownership  
 393 to a relative of the operator if the operator has had his or her  
 394 license suspended or revoked by the department pursuant to s.  
 395 402.310, has received notice from the department that reasonable  
 396 cause exists to suspend or revoke the license, or has been  
 397 placed on the United States Department of Agriculture National  
 398 Disqualified list. For purposes of this paragraph, "relative"  
 399 means father, mother, son, daughter, grandfather, grandmother,  
 400 brother, sister, uncle, aunt, cousin, nephew, niece, husband,  
 401 wife, father-in-law, mother-in-law, son-in-law, daughter-in-law,  
 402 brother-in-law, sister-in-law, stepfather, stepmother, stepson,  
 403 stepdaughter, stepbrother, stepsister, half brother, or half  
 404 sister.

405        (c)~~(b)~~ The department shall, by rule, establish methods by  
 406 which notice will be achieved and minimum standards by which to  
 407 implement this subsection.

408        (19) RULES.—The department may adopt rules to define and  
 409 enforce substantial compliance with minimum standards for child  
 410 care facilities for programs operating under s. 1002.55, s.  
 411 1002.61, or s. 1002.88 that are regulated but not licensed by  
 412 the department.

413        Section 7. Section 402.3085, Florida Statutes, is created  
 414 to read:

415        402.3085 Certificate of substantial compliance with  
 416 minimum child care standards.—Each nonpublic school or provider

417 seeking to operate a program pursuant to s. 402.3025(2)(d) or s.  
 418 402.316(4), respectively, shall annually obtain a certificate  
 419 from the department or local licensing agency in the manner and  
 420 on the forms prescribed by the department or local licensing  
 421 agency. An annual certificate or a renewal of an annual  
 422 certificate shall be issued upon an examination of the  
 423 applicant's premises and records to determine that the applicant  
 424 is in substantial compliance with the minimum child care  
 425 standards. A provider may not participate in these programs  
 426 without this certification. Local licensing agencies may apply  
 427 their own minimum child care standards if the department  
 428 determines that such standards meet or exceed department  
 429 standards as provided in s. 402.307.

430 Section 8. Section 402.311, Florida Statutes, is amended  
 431 to read:

432 402.311 Inspection.—A licensed child care facility or  
 433 program regulated by the department shall accord to the  
 434 department or the local licensing agency, whichever is  
 435 applicable, the privilege of inspection, including access to  
 436 facilities and personnel and to those records required in s.  
 437 402.305, at reasonable times during regular business hours, to  
 438 ensure compliance with ~~the provisions of~~ ss. 402.301-402.319.  
 439 The right of entry and inspection shall also extend to any  
 440 premises which the department or local licensing agency has  
 441 reason to believe are being operated or maintained as a child  
 442 care facility or program ~~without a license~~, but no such entry or

443 inspection of any premises shall be made without the permission  
 444 of the person in charge thereof unless a warrant is first  
 445 obtained from the circuit court authorizing same. Any  
 446 application for a license, application for authorization to  
 447 operate a child care program which must maintain substantial  
 448 compliance with child care standards adopted under this chapter,  
 449 or renewal of such license or authorization ~~made pursuant to~~  
 450 ~~this act~~ or the advertisement to the public for the provision of  
 451 child care as defined in s. 402.302 shall constitute permission  
 452 for any entry or inspection of the subject premises ~~for which~~  
 453 ~~the license is sought in order~~ to facilitate verification of the  
 454 information submitted on or in connection with the application.  
 455 In the event a ~~licensed~~ facility or program refuses permission  
 456 for entry or inspection to the department or local licensing  
 457 agency, a warrant shall be obtained from the circuit court  
 458 authorizing same before ~~prior to~~ such entry or inspection. The  
 459 department or local licensing agency may institute disciplinary  
 460 proceedings pursuant to s. 402.310~~7~~ for such refusal.

461 Section 9. Section 402.3115, Florida Statutes, is amended  
 462 to read:

463 402.3115 ~~Elimination of duplicative and unnecessary~~  
 464 ~~inspections;~~ Abbreviated inspections. ~~The Department of Children~~  
 465 ~~and Family Services and local governmental agencies that license~~  
 466 ~~child care facilities shall develop and implement a plan to~~  
 467 ~~eliminate duplicative and unnecessary inspections of child care~~  
 468 ~~facilities.~~ In addition, The department and the local licensing



469 ~~governmental~~ agencies shall conduct ~~develop and implement an~~  
 470 abbreviated inspections of inspection plan for child care  
 471 facilities licensed under s. 402.305, family child care homes  
 472 licensed under s. 402.313, and large family child care homes  
 473 licensed under s. 402.3131 that have had no Class I ~~1~~ or Class  
 474 II violations ~~2 deficiencies~~, as defined by rule, for at least 2  
 475 consecutive years. The abbreviated inspection must include those  
 476 elements identified by the department and the local licensing  
 477 ~~governmental~~ agencies as being key indicators of whether the  
 478 child care facility continues to provide quality care and  
 479 programming. The department shall adopt rules establishing  
 480 criteria and procedures for abbreviated inspections and  
 481 inspection schedules that provide for both announced and  
 482 unannounced inspections.

483 Section 10. Section 402.313, Florida Statutes, is amended  
 484 to read:

485 402.313 Family child day care homes.—

486 (1) A family child day care home must ~~homes shall~~ be  
 487 licensed under this section ~~act~~ if it is ~~they are~~ presently  
 488 being licensed under an existing county licensing ordinance, ~~or~~  
 489 ~~if~~ the board of county commissioners passes a resolution that  
 490 requires licensure of family child day care homes, or the family  
 491 child care home is operating a program under s. 1002.55, s.  
 492 1002.61, or s. 1002.88 ~~be licensed~~. Each licensed or registered  
 493 family child care home must conspicuously display its license or  
 494 registration in an area viewable by all parents during hours of

495 operation.

496 (a) If not subject to license, a family child day care  
 497 home must comply with this section and ~~homes shall~~ register  
 498 annually with the department, providing the following  
 499 information:

- 500 1. The name and address of the home.
- 501 2. The name of the operator.
- 502 3. The number of children served.
- 503 4. Proof of a written plan to identify a ~~provide at least~~  
 504 ~~one other~~ competent adult who has met the screening and training  
 505 requirements of the department to serve as a designated ~~to be~~  
 506 ~~available to~~ substitute for the operator ~~in an emergency~~. This  
 507 plan must ~~shall~~ include the name, address, and telephone number  
 508 of the designated substitute who will serve in the absence of  
 509 the operator.

- 510 ~~5. Proof of screening and background checks.~~
- 511 ~~6. Proof of successful completion of the 30-hour training~~  
 512 ~~course, as evidenced by passage of a competency examination,~~  
 513 ~~which shall include:~~
  - 514 ~~a. State and local rules and regulations that govern child~~  
 515 ~~care.~~
  - 516 ~~b. Health, safety, and nutrition.~~
  - 517 ~~c. Identifying and reporting child abuse and neglect.~~
  - 518 ~~d. Child development, including typical and atypical~~  
 519 ~~language development, and cognitive, motor, social, and self-~~  
 520 ~~help skills development.~~

521 e. ~~Observation of developmental behaviors, including using~~  
 522 ~~a checklist or other similar observation tools and techniques to~~  
 523 ~~determine a child's developmental level.~~

524 f. ~~Specialized areas, including early literacy and~~  
 525 ~~language development of children from birth to 5 years of age,~~  
 526 ~~as determined by the department, for owner operators of family~~  
 527 ~~day care homes.~~

528 5.7. Proof that immunization records are kept current.

529 ~~8. Proof of completion of the required continuing~~  
 530 ~~education units or clock hours.~~

531

532 Upon receipt of registration information submitted by a family  
 533 child care home, the department shall verify that the home is in  
 534 compliance with the background screening requirements in  
 535 subsection (3) and that the operator and the designated  
 536 substitute are in compliance with applicable training  
 537 requirements in subsection (4).

538 (b) A family child day care home may volunteer to be  
 539 licensed ~~under this act.~~

540 (c) The department may provide technical assistance to  
 541 counties and operators of family child day care homes ~~home~~  
 542 ~~providers~~ to enable counties and operators ~~family day care~~  
 543 ~~providers~~ to achieve compliance with family child day care home  
 544 ~~homes~~ standards.

545 (2) This information shall be included in a directory to  
 546 be published annually by the department to inform the public of

547 available child care facilities.

548 (3) Child care personnel in family child day care homes  
 549 are ~~shall be~~ subject to the applicable screening provisions  
 550 contained in ss. 402.305(2) and 402.3055. For purposes of  
 551 screening in family child day care homes, the term "child care  
 552 personnel" includes the operator, the designated substitute, any  
 553 member over the age of 12 years of a family child day care home  
 554 operator's family, or persons over the age of 12 years residing  
 555 with the operator in the family child day care home. Members of  
 556 the operator's family, or persons residing with the operator,  
 557 who are between the ages of 12 years and 18 years shall not be  
 558 required to be fingerprinted, but shall be screened for  
 559 delinquency records.

560 (4) (a) Before licensure and before caring for children,  
 561 operators of family child day care homes and an individual  
 562 serving as a substitute for the operator who works 40 hours or  
 563 more per month on average must:

564 1. Successfully complete an approved 30-clock-hour  
 565 introductory course in child care, as evidenced by passage of a  
 566 competency examination, before caring for children. The course  
 567 must include:

568 a. State and local rules and regulations that govern child  
 569 care.

570 b. Health, safety, and nutrition.

571 c. Identifying and reporting child abuse and neglect.

572 d. Child development, including typical and atypical

573 language development, and cognitive, motor, social, and  
 574 executive functioning skills development.

575 e. Observation of developmental behaviors, including using  
 576 a checklist or other similar observation tools and techniques to  
 577 determine a child's developmental level.

578 f. Specialized areas, including numeracy, early literacy,  
 579 and language development of children from birth to 5 years of  
 580 age, as determined by the department, for operators of family  
 581 child care homes.

582 ~~(5) In order to further develop their child care skills~~  
 583 ~~and, if appropriate, their administrative skills, operators of~~  
 584 ~~family day care homes shall be required to complete an~~  
 585 ~~additional 1 continuing education unit of approved training or~~  
 586 ~~10 clock hours of equivalent training, as determined by the~~  
 587 ~~department, annually.~~

588 2.(6) Operators of family day care homes shall be required  
 589 to Complete 0.5 continuing education unit of approved training  
 590 in numeracy, early literacy, and language development of  
 591 children from birth to 5 years of age one time. For an operator,  
 592 the year that this training is completed, it shall fulfill the  
 593 0.5 continuing education unit or 5 clock hours of the annual  
 594 training required in paragraph (c) subsection (5).

595 3. Complete training in first aid and infant and child  
 596 cardiopulmonary resuscitation as evidenced by current  
 597 documentation of course completion.

598           (b) Before licensure and before caring for children,  
 599 family child care home substitutes who work fewer than 40 hours  
 600 per month on average must complete the department's 6-clock-hour  
 601 Family Child Care Home Rules and Regulations training, as  
 602 evidenced by successful completion of a competency examination  
 603 and first aid and infant and child cardiopulmonary resuscitation  
 604 training under subparagraph (a)3. A substitute who has  
 605 successfully completed the 3-clock-hour Fundamentals of Child  
 606 Care training established by rules of the department or the 30-  
 607 clock-hour training under subparagraph (a)1. is not required to  
 608 complete the 6-clock-hour Family Child Care Home Rules and  
 609 Regulations training.

610           (c) Operators of family day care homes must annually  
 611 complete an additional 1 continuing education unit of approved  
 612 training regarding child care and administrative skills or 10  
 613 clock hours of equivalent training, as determined by the  
 614 department.

615           (5)-(7) Operators of family ~~day~~ child care homes must ~~shall~~  
 616 ~~be required~~ annually ~~to~~ complete a health and safety home  
 617 inspection self-evaluation checklist developed by the department  
 618 in conjunction with the statewide resource and referral program.  
 619 The completed checklist shall be signed by the operator of the  
 620 family child ~~day~~ care home and provided to parents as  
 621 certification that basic health and safety standards are being  
 622 met.

623           (6)-(8) Operators of family child ~~day~~ care homes ~~home~~

624 ~~operators~~ may avail themselves of supportive services offered by  
 625 the department.

626 ~~(7)(9)~~ The department shall prepare a brochure on family  
 627 child day care for distribution by the department and by local  
 628 licensing agencies, if appropriate, to family child day care  
 629 homes for distribution to parents using ~~utilizing~~ such child  
 630 care, and to all interested persons, including physicians and  
 631 other health professionals; mental health professionals; school  
 632 teachers or other school personnel; social workers or other  
 633 professional child care, foster care, residential, or  
 634 institutional workers; and law enforcement officers. The  
 635 brochure shall, at a minimum, contain the following information:

636 (a) A brief description of the requirements for family  
 637 child day care registration, training, and background  
 638 ~~fingerprinting~~ and screening.

639 (b) A listing of those counties that require licensure of  
 640 family child day care homes. Such counties shall provide an  
 641 addendum to the brochure that provides a brief description of  
 642 the licensure requirements or may provide a brochure in lieu of  
 643 the one described in this subsection, provided it contains all  
 644 the required information on licensure and the required  
 645 information in the subsequent paragraphs.

646 (c) A statement indicating that information about the  
 647 family child day care home's compliance with applicable state or  
 648 local requirements can be obtained from ~~by telephoning~~ the  
 649 department ~~office~~ or ~~the office of~~ the local licensing agency,

650 including the, if appropriate, at a telephone number or numbers  
 651 and website address for the department or local licensing  
 652 agency, as applicable ~~which shall be affixed to the brochure.~~

653 (d) The statewide toll-free telephone number of the  
 654 central abuse hotline, together with a notice that reports of  
 655 suspected and actual child physical abuse, sexual abuse, and  
 656 neglect are received and referred for investigation by the  
 657 hotline.

658 (e) Any other information relating to competent child care  
 659 that the department or local licensing agency, if preparing a  
 660 separate brochure, considers ~~deems would be~~ helpful to parents  
 661 and other caretakers in their selection of a family child day  
 662 care home.

663 ~~(8)-(10)~~ On an annual basis, the department shall evaluate  
 664 the registration and licensure system for family child day care  
 665 homes. Such evaluation shall, at a minimum, address the  
 666 following:

667 (a) The number of family child day care homes registered  
 668 and licensed and the dates of such registration and licensure.

669 (b) The number of children being served in both registered  
 670 and licensed family child day care homes and any available slots  
 671 in such homes.

672 (c) The number of complaints received concerning family  
 673 child day care, the nature of the complaints, and the resolution  
 674 of such complaints.

675 (d) The training activities used ~~utilized~~ by child care



676 personnel in family child ~~day~~ care homes for meeting the state  
 677 or local training requirements.

678

679 The evaluation shall be used ~~utilized~~ by the department in any  
 680 administrative modifications or adjustments to be made in the  
 681 registration of family child ~~day~~ care homes or in any  
 682 legislative requests for modifications to the system of  
 683 registration or to other requirements for family child ~~day~~ care  
 684 homes.

685 ~~(11) In order to inform the public of the state~~  
 686 ~~requirement for registration of family day care homes as well as~~  
 687 ~~the other requirements for such homes to legally operate in the~~  
 688 ~~state, the department shall institute a media campaign to~~  
 689 ~~accomplish this end. Such a campaign shall include, at a~~  
 690 ~~minimum, flyers, newspaper advertisements, radio advertisements,~~  
 691 ~~and television advertisements.~~

692 (9) ~~(12)~~ Notwithstanding any other state or local law or  
 693 ordinance, any family child ~~day~~ care home licensed pursuant to  
 694 this chapter or pursuant to a county ordinance shall be charged  
 695 the utility rates accorded to a residential home. A licensed  
 696 family child ~~day~~ care home may not be charged commercial utility  
 697 rates.

698 (10) ~~(13)~~ The department shall, by rule, establish minimum  
 699 standards for family child ~~day~~ care homes that are required to  
 700 be licensed by county licensing ordinance or county licensing  
 701 resolution or that voluntarily choose to be licensed. The

702 standards should include requirements for staffing, training,  
 703 maintenance of immunization records, minimum health and safety  
 704 standards, reduced standards for the regulation of child care  
 705 during evening hours by municipalities and counties, and  
 706 enforcement of standards. Additionally, the department shall, by  
 707 rule, adopt procedures for verifying a registered family child  
 708 care home's compliance with background screening and training  
 709 requirements.

710 ~~(11) (14) During the months of August and September of each~~  
 711 ~~year,~~ Each family child ~~day~~ care home shall provide parents of  
 712 children enrolling ~~enrolled~~ in the home detailed information  
 713 regarding the causes, symptoms, and transmission of the  
 714 influenza virus in an effort to educate those parents regarding  
 715 the importance of immunizing their children against influenza as  
 716 recommended by the Advisory Committee on Immunization Practices  
 717 of the Centers for Disease Control and Prevention.

718 Section 11. Subsections (3), (5), and (9) of section  
 719 402.3131, Florida Statutes, are amended, and subsection (10) is  
 720 added to that section, to read:

721 402.3131 Large family child care homes.-

722 (3) Operators of large family child care homes must  
 723 successfully complete an approved 40-clock-hour introductory  
 724 course in group child care, including numeracy, early literacy,  
 725 and language development of children from birth to 5 years of  
 726 age, as evidenced by passage of a competency examination.

727 Successful completion of the 40-clock-hour introductory course

728 shall articulate into community college credit in early  
 729 childhood education, pursuant to ss. 1007.24 and 1007.25.

730 (5) Operators of large family child care homes shall be  
 731 required to complete 0.5 continuing education unit of approved  
 732 training or 5 clock hours of equivalent training, as determined  
 733 by the department, in numeracy, early literacy, and language  
 734 development of children from birth to 5 years of age one time.  
 735 The year that this training is completed, it shall fulfill the  
 736 0.5 continuing education unit or 5 clock hours of the annual  
 737 training required in subsection (4).

738 (9) ~~During the months of August and September of each~~  
 739 ~~year,~~ Each large family child care home shall provide parents of  
 740 children enrolling ~~enrolled~~ in the home detailed information  
 741 regarding the causes, symptoms, and transmission of the  
 742 influenza virus in an effort to educate those parents regarding  
 743 the importance of immunizing their children against influenza as  
 744 recommended by the Advisory Committee on Immunization Practices  
 745 of the Centers for Disease Control and Prevention.

746 (10) Notwithstanding any other state or local law or  
 747 ordinance, any large family child care home licensed pursuant to  
 748 this chapter or pursuant to a county ordinance shall be charged  
 749 the utility rates accorded to a residential home. Such a home  
 750 may not be charged commercial utility rates.

751 Section 12. Subsections (4), (5), and (6) are added to  
 752 section 402.316, Florida Statutes, to read:

753 402.316 Exemptions.—

754 (4) A child care facility operating under subsection (1)  
 755 that is applying to operate or is operating as a provider of a  
 756 program described in s. 1002.55, s. 1002.61, or s. 1002.88 must  
 757 substantially comply with the minimum standards for child care  
 758 facilities adopted pursuant to ss. 402.305-402.3057 and must  
 759 allow the department or local licensing agency access to monitor  
 760 and enforce compliance with such standards.

761 (a) The department or local licensing agency may pursue  
 762 administrative or judicial action under ss. 402.310-402.312 and  
 763 the rules adopted under those sections against any child care  
 764 facility operating under this subsection to enforce substantial  
 765 compliance with child care facility minimum standards or to  
 766 protect the health, safety, and well-being of any children in  
 767 the facility's care. A child care facility operating under this  
 768 subsection is subject to ss. 402.310-402.312 and the rules  
 769 adopted under those sections to the same extent as a child care  
 770 facility licensed under ss. 402.301-402.319.

771 (b) It is a misdemeanor of the first degree, punishable as  
 772 provided in s. 775.082 or s. 775.083, for a person willfully,  
 773 knowingly, or intentionally to:

774 1. Fail, by false statement, misrepresentation,  
 775 impersonation, or other fraudulent means, to disclose in any  
 776 required written documentation for exclusion from licensure  
 777 pursuant to this section a material fact used in making a  
 778 determination as to such exclusion; or

779 2. Use information from the criminal records obtained

780 under s. 402.305 or s. 402.3055 for a purpose other than  
 781 screening that person for employment as specified in those  
 782 sections or to release such information to any other person for  
 783 a purpose other than screening for employment as specified in  
 784 those sections.

785 (c) It is a felony of the third degree, punishable as  
 786 provided in s. 775.082, s. 775.083, or s. 775.084, for a person  
 787 willfully, knowingly, or intentionally to use information from  
 788 the juvenile records of a person obtained under s. 402.305 or s.  
 789 402.3055 for a purpose other than screening for employment as  
 790 specified in those sections or to release information from such  
 791 records to any other person for a purpose other than screening  
 792 for employment as specified in those sections.

793 (5) The department shall establish a fee for inspection  
 794 and compliance activities performed pursuant to this section in  
 795 an amount sufficient to cover costs. However, the amount of such  
 796 fee for the inspection of a program may not exceed the fee  
 797 imposed for child care licensure pursuant to s. 402.315.

798 (6) The inclusion of a child care facility operating under  
 799 subsection (1) as a provider of a program described in s.  
 800 1002.55, s. 1002.61, or s. 1002.88 does not expand the  
 801 regulatory authority of the state, its officers, any local  
 802 licensing agency, or any early learning coalition to impose any  
 803 additional regulation of child care facilities beyond those  
 804 reasonably necessary to enforce requirements expressly set forth  
 805 in this section.

806 Section 13. Section 627.70161, Florida Statutes, is  
 807 amended to read:

808 627.70161 Residential property insurance coverage; family  
 809 child ~~day~~ care homes and large family child care homes  
 810 insurance.-

811 (1) PURPOSE AND INTENT.-The Legislature recognizes that  
 812 family child ~~day~~ care homes and large family child care homes  
 813 fulfill a vital role in providing child care in Florida. It is  
 814 the intent of the Legislature that residential property  
 815 insurance coverage should not be canceled, denied, or nonrenewed  
 816 solely because child ~~on the basis of the family day care~~  
 817 services are provided at the residence. The Legislature also  
 818 recognizes that the potential liability of residential property  
 819 insurers is substantially increased by the rendition of child  
 820 care services on the premises. The Legislature therefore finds  
 821 that there is a public need to specify that contractual  
 822 liabilities associated ~~that arise in connection~~ with the  
 823 operation of a ~~the~~ family child ~~day~~ care home or large family  
 824 child care home are excluded from residential property insurance  
 825 policies unless they are specifically included in such coverage.

826 (2) DEFINITIONS.-As used in this section, the term:

827 (a) "Child care" means the care, protection, and  
 828 supervision of a child, for a period up to ~~of less than~~ 24 hours  
 829 a day on a regular basis, which supplements parental care,  
 830 enrichment, and health supervision for the child, in accordance  
 831 with his or her individual needs, and for which a payment, fee,

832 or grant is made for care.

833 (b) "Family child day care home" has the same meaning as  
 834 provided in s. 402.302(8) means an occupied residence in which  
 835 child care is regularly provided for children from at least two  
 836 unrelated families and which receives a payment, fee, or grant  
 837 for any of the children receiving care, whether or not operated  
 838 for a profit.

839 (c) "Large family child care home" has the same meaning as  
 840 provided in s. 402.302(11).

841 (3) CHILD FAMILY DAY CARE; COVERAGE.—A residential  
 842 property insurance policy shall not provide coverage for  
 843 liability for claims arising out of, or in connection with, the  
 844 operation of a family child day care home or large family child  
 845 care home, and the insurer shall be under no obligation to  
 846 defend against lawsuits covering such claims, unless:

847 (a) Specifically covered in a policy; or

848 (b) Covered by a rider or endorsement for business  
 849 coverage attached to a policy.

850 (4) DENIAL, CANCELLATION, REFUSAL TO RENEW PROHIBITED.—An  
 851 insurer may not deny, cancel, or refuse to renew a policy for  
 852 residential property insurance solely on the basis that the  
 853 policyholder or applicant operates a family child day care home  
 854 or large family child care home. In addition to other lawful  
 855 reasons for refusing to insure, an insurer may deny, cancel, or  
 856 refuse to renew a policy of a family child day care home or  
 857 large family child care home provider if one or more of the

858 following conditions occur:

859 (a) The policyholder or applicant provides care for more  
 860 children than authorized for family child ~~day~~ care homes or  
 861 large family child care homes by s. 402.302;

862 (b) The policyholder or applicant fails to maintain a  
 863 separate commercial liability policy or an endorsement providing  
 864 liability coverage for ~~the~~ family child ~~day~~ care home or large  
 865 family child care home operations;

866 (c) The policyholder or applicant fails to comply with the  
 867 family child ~~day~~ care home licensure and registration  
 868 requirements specified in s. 402.313 or the large family child  
 869 care home licensure requirements specified in s. 402.3131; or

870 (d) Discovery of willful or grossly negligent acts or  
 871 omissions or any violations of state laws or regulations  
 872 establishing safety standards for family child ~~day~~ care homes  
 873 and large family child care homes by the named insured or his or  
 874 her representative which materially increase any of the risks  
 875 insured.

876 Section 14. Subsections (7), (8), and (9) are added to  
 877 section 1001.213, Florida Statutes, to read:

878 1001.213 Office of Early Learning.—There is created within  
 879 the Office of Independent Education and Parental Choice the  
 880 Office of Early Learning, as required under s. 20.15, which  
 881 shall be administered by an executive director. The office shall  
 882 be fully accountable to the Commissioner of Education but shall:

883 (7) Hire a general counsel who reports directly to the



884 executive director of the office.

885 (8) Hire an inspector general who reports directly to the  
 886 executive director of the office and to the Chief Inspector  
 887 General pursuant to s. 14.32.

888 (9) By July 1, 2016, develop and implement, in  
 889 consultation with early learning coalitions and providers of the  
 890 Voluntary Prekindergarten Education Program and the child care  
 891 and development program, best practices for providing parental  
 892 notifications in the parent's native language to a parent whose  
 893 native language is a language other than English.

894 Section 15. Subsection (4) of section 1002.53, Florida  
 895 Statutes, is amended to read:

896 1002.53 Voluntary Prekindergarten Education Program;  
 897 eligibility and enrollment.—

898 (4)(a) Each parent enrolling a child in the Voluntary  
 899 Prekindergarten Education Program must complete and submit an  
 900 application to the early learning coalition through the single  
 901 point of entry established under s. 1002.82 or to a private  
 902 prekindergarten provider if the provider is authorized by the  
 903 early learning coalition to determine student eligibility for  
 904 enrollment in the program.

905 (b) The application must be submitted on forms prescribed  
 906 by the Office of Early Learning and must be accompanied by a  
 907 certified copy of the child's birth certificate. The forms must  
 908 include a certification, in substantially the form provided in  
 909 s. 1002.71(6)(b)2., that the parent chooses the private

910 | prekindergarten provider or public school in accordance with  
 911 | this section and directs that payments for the program be made  
 912 | to the provider or school. The Office of Early Learning may  
 913 | authorize alternative methods for submitting proof of the  
 914 | child's age in lieu of a certified copy of the child's birth  
 915 | certificate.

916 |       (c) If a private prekindergarten provider has been  
 917 | authorized to determine child eligibility and enrollment, upon  
 918 | receipt of an application, the provider must:

919 |           1. Determine the child's eligibility for the program and  
 920 | be responsible for any errors in such determination.

921 |           2. Retain the original application and certified copy of  
 922 | the child's birth certificate or authorized alternative proof of  
 923 | age on file for at least 5 years.

924 |  
 925 | The early learning coalition may audit applications held by a  
 926 | private prekindergarten provider in the coalition's service area  
 927 | to determine whether children enrolled and reported for funding  
 928 | by the provider have met the eligibility criteria in subsection  
 929 | (2).

930 |       ~~(d)~~~~(e)~~ Each early learning coalition shall coordinate with  
 931 | each of the school districts within the coalition's county or  
 932 | multicounty region in the development of procedures for  
 933 | enrolling children in prekindergarten programs delivered by  
 934 | public schools, including procedures for making child  
 935 | eligibility determinations and auditing enrollment records to

936 | confirm that enrolled children have met eligibility  
 937 | requirements.

938 | Section 16. Section 1002.55, Florida Statutes, is amended  
 939 | to read:

940 | 1002.55 School-year prekindergarten program delivered by  
 941 | private prekindergarten providers.—

942 | (1) Each early learning coalition shall administer the  
 943 | Voluntary Prekindergarten Education Program at the county or  
 944 | regional level for students enrolled under s. 1002.53(3)(a) in a  
 945 | school-year prekindergarten program delivered by a private  
 946 | prekindergarten provider. Each early learning coalition must  
 947 | cooperate with the Office of Early Learning and the Child Care  
 948 | Services Program Office of the Department of Children and  
 949 | Families to reduce paperwork and to avoid duplicating  
 950 | interagency activities, health and safety monitoring, and  
 951 | acquiring and composing data pertaining to child care training  
 952 | and credentialing.

953 | (2) Each school-year prekindergarten program delivered by  
 954 | a private prekindergarten provider must comprise at least 540  
 955 | instructional hours.

956 | (3) To be eligible to deliver the prekindergarten program,  
 957 | a private prekindergarten provider must meet each of the  
 958 | following requirements:

959 | ~~(a) The private prekindergarten provider must be a child~~  
 960 | ~~care facility licensed under s. 402.305, family day care home~~  
 961 | ~~licensed under s. 402.313, large family child care home licensed~~

962 ~~under s. 402.3131, nonpublic school exempt from licensure under~~  
 963 ~~s. 402.3025(2), or faith-based child care provider exempt from~~  
 964 ~~licensure under s. 402.316.~~

965 (a) ~~(b)~~ The private prekindergarten provider must:

966 1. Be accredited by an accrediting association that is a  
 967 member of the National Council for Private School Accreditation,  
 968 or the Florida Association of Academic Nonpublic Schools, or be  
 969 accredited by the Southern Association of Colleges and Schools,  
 970 or Western Association of Colleges and Schools, or North Central  
 971 Association of Colleges and Schools, or Middle States  
 972 Association of Colleges and Schools, or New England Association  
 973 of Colleges and Schools; and have written accreditation  
 974 standards that meet or exceed the state's licensing requirements  
 975 under s. 402.305, s. 402.313, or s. 402.3131 and require at  
 976 least one onsite visit to the provider or school before  
 977 accreditation is granted;

978 2. Hold a current Gold Seal Quality Care designation under  
 979 s. 402.281; ~~or~~

980 3. Be licensed under s. 402.305, s. 402.313, or s.  
 981 402.3131; or

982 4. Be a child development center located on a military  
 983 installation that is certified by the United States Department  
 984 of Defense.

985 (b) The private prekindergarten provider must provide  
 986 basic health and safety on its premises and in its facilities.  
 987 For a public school, compliance with ss. 1003.22 and 1013.12

988 satisfies this requirement. For a nonpublic school, compliance  
 989 with s. 402.3025(2)(d) satisfies this requirement. For a child  
 990 care facility, a licensed family child care home, or a large  
 991 family child care home, compliance with s. 402.305, s. 402.313,  
 992 or s. 402.3131, respectively, satisfies this requirement. For a  
 993 facility exempt from licensure, compliance with s. 402.316(4)  
 994 satisfies this requirement ~~and demonstrate, before delivering~~  
 995 ~~the Voluntary Prekindergarten Education Program, as verified by~~  
 996 ~~the early learning coalition, that the provider meets each of~~  
 997 ~~the requirements of the program under this part, including, but~~  
 998 ~~not limited to, the requirements for credentials and background~~  
 999 ~~screenings of prekindergarten instructors under paragraphs (e)~~  
 1000 ~~and (d), minimum and maximum class sizes under paragraph (f),~~  
 1001 ~~prekindergarten director credentials under paragraph (g), and a~~  
 1002 ~~developmentally appropriate curriculum under s. 1002.67(2)(b).~~

1003 (c) The private prekindergarten provider must have, for  
 1004 each prekindergarten class of 11 children or fewer, at least one  
 1005 prekindergarten instructor who meets each of the following  
 1006 requirements:

1007 1. The prekindergarten instructor must hold, at a minimum,  
 1008 one of the following credentials:

1009 a. A child development associate credential issued by the  
 1010 National Credentialing Program of the Council for Professional  
 1011 Recognition; ~~or~~

1012 b. A credential approved by the Department of Children and  
 1013 Families, pursuant to s. 402.305(3)(c), as being equivalent to

1014 or greater than the credential described in sub-subparagraph a.;

1015 c. An associate or higher degree in child development;

1016 d. An associate or higher degree in an unrelated field, at

1017 least 6 credit hours in early childhood education or child

1018 development, and at least 480 hours of experience in teaching or

1019 providing child care services for children any age from birth

1020 through 8 years of age;

1021 e. A baccalaureate or higher degree in early childhood

1022 education, prekindergarten or primary education, preschool

1023 education, or family and consumer science;

1024 f. A baccalaureate or higher degree in family and child

1025 science and at least 480 hours of experience in teaching or

1026 providing child care services for children any age from birth

1027 through 8 years of age;

1028 g. A baccalaureate or higher degree in elementary

1029 education if the prekindergarten instructor has been certified

1030 to teach children any age from birth through grade 6, regardless

1031 of whether the instructor's educator certificate is current, and

1032 if the instructor is not ineligible to teach in a public school

1033 because his or her educator certificate is suspended or revoked;

1034 or

1035 h. A credential approved by the department as being

1036 equivalent to or greater than a credential described in sub-

1037 subparagraphs a.-f. The department may adopt criteria and

1038 procedures for approving such equivalent credentials.

1039

1040 ~~The Department of Children and Families may adopt rules under~~  
 1041 ~~ss. 120.536(1) and 120.54 which provide criteria and procedures~~  
 1042 ~~for approving equivalent credentials under sub-subparagraph b.~~

1043 2. The prekindergarten instructor must successfully  
 1044 complete an emergent literacy training course and a student  
 1045 performance standards training course approved by the office as  
 1046 meeting or exceeding the minimum standards adopted under s.  
 1047 1002.59. The requirement for completion of the standards  
 1048 training course shall take effect July 1, 2015 ~~2014~~, and the  
 1049 course shall be available online.

1050 3. Beginning January 1, 2015, each prekindergarten  
 1051 instructor must be trained in first aid and infant and child  
 1052 cardiopulmonary resuscitation, as evidenced by current  
 1053 documentation of course completion, unless the instructor is not  
 1054 responsible for supervising children in care. As a condition of  
 1055 employment, instructors hired on or after January 1, 2015, must  
 1056 complete this training within 30 days after employment.

1057 ~~(d) Each prekindergarten instructor employed by the~~  
 1058 ~~private prekindergarten provider must be of good moral~~  
 1059 ~~character, must be screened using the level 2 screening~~  
 1060 ~~standards in s. 435.04 before employment and rescreened at least~~  
 1061 ~~once every 5 years, must be denied employment or terminated if~~  
 1062 ~~required under s. 435.06, and must not be ineligible to teach in~~  
 1063 ~~a public school because his or her educator certificate is~~  
 1064 ~~suspended or revoked.~~

1065 ~~(e) A private prekindergarten provider may assign a~~

1066 ~~substitute instructor to temporarily replace a credentialed~~  
 1067 ~~instructor if the credentialed instructor assigned to a~~  
 1068 ~~prekindergarten class is absent, as long as the substitute~~  
 1069 ~~instructor is of good moral character and has been screened~~  
 1070 ~~before employment in accordance with level 2 background~~  
 1071 ~~screening requirements in chapter 435. The Office of Early~~  
 1072 ~~Learning shall adopt rules to implement this paragraph which~~  
 1073 ~~shall include required qualifications of substitute instructors~~  
 1074 ~~and the circumstances and time limits for which a private~~  
 1075 ~~prekindergarten provider may assign a substitute instructor.~~

1076 (d)~~(f)~~ Each of the private prekindergarten provider's  
 1077 prekindergarten classes must be composed of at least 4 students  
 1078 but may not exceed 20 students. In order to protect the health  
 1079 and safety of students, each private prekindergarten provider  
 1080 must also provide appropriate adult supervision for students at  
 1081 all times and, for each prekindergarten class composed of 12 or  
 1082 more students, must have, in addition to a prekindergarten  
 1083 instructor who meets the requirements of paragraph (c), at least  
 1084 one adult prekindergarten instructor who is not required to meet  
 1085 those requirements but who must meet each requirement of s.  
 1086 402.305(2) ~~paragraph (d)~~. This paragraph does not supersede any  
 1087 requirement imposed on a provider under ss. 402.301-402.319.

1088 (e) Beginning January 1, 2016, the private prekindergarten  
 1089 provider must employ child care personnel who hold a high school  
 1090 diploma or its equivalent and are at least 18 years of age,  
 1091 unless the personnel are not responsible for supervising



1092 | children in care or are under direct supervision and are not  
 1093 | counted for the purposes of computing the personnel-to-child  
 1094 | ratio.

1095 |     (f)~~(g)~~ The private prekindergarten provider must have a  
 1096 | prekindergarten director who has a prekindergarten director  
 1097 | credential that is approved by the office as meeting or  
 1098 | exceeding the minimum standards adopted under s. 1002.57.  
 1099 | Successful completion of a child care facility director  
 1100 | credential under s. 402.305(2)(f) before the establishment of  
 1101 | the prekindergarten director credential under s. 1002.57 or July  
 1102 | 1, 2006, whichever occurs later, satisfies the requirement for a  
 1103 | prekindergarten director credential under this paragraph.

1104 |     (g)~~(h)~~ The private prekindergarten provider must register  
 1105 | with the early learning coalition on forms prescribed by the  
 1106 | Office of Early Learning.

1107 |     (h)~~(i)~~ The private prekindergarten provider must execute  
 1108 | the statewide provider contract prescribed under s. 1002.75,  
 1109 | except that an individual who owns or operates multiple private  
 1110 | prekindergarten providers within a coalition's service area may  
 1111 | execute a single agreement with the coalition on behalf of each  
 1112 | provider.

1113 |     (i)~~(j)~~ The private prekindergarten provider must maintain  
 1114 | general liability insurance and provide the coalition with  
 1115 | written evidence of general liability insurance coverage,  
 1116 | including coverage for transportation of children if  
 1117 | prekindergarten students are transported by the provider. A

1118 provider must obtain and retain an insurance policy that  
 1119 provides a minimum of \$100,000 of coverage per occurrence and a  
 1120 minimum of \$300,000 general aggregate coverage. The office may  
 1121 authorize lower limits upon request, as appropriate. ~~A provider~~  
 1122 ~~must add the coalition as a named certificateholder and as an~~  
 1123 ~~additional insured.~~ A provider must provide the coalition with a  
 1124 minimum of 10 calendar days' advance written notice of  
 1125 cancellation of or changes to coverage. The general liability  
 1126 insurance required by this paragraph must remain in full force  
 1127 and effect for the entire period of the provider contract with  
 1128 the coalition.

1129 ~~(j)~~~~(k)~~ The private prekindergarten provider must obtain  
 1130 and maintain any required workers' compensation insurance under  
 1131 chapter 440 and any required reemployment assistance or  
 1132 unemployment compensation coverage under chapter 443, unless  
 1133 exempt under state or federal law.

1134 ~~(k)~~~~(l)~~ Notwithstanding paragraph ~~(i)~~ ~~(j)~~, for a private  
 1135 prekindergarten provider that is a state agency or a subdivision  
 1136 thereof, as defined in s. 768.28(2), the provider must agree to  
 1137 notify the coalition of any additional liability coverage  
 1138 maintained by the provider in addition to that otherwise  
 1139 established under s. 768.28. The provider shall indemnify the  
 1140 coalition to the extent permitted by s. 768.28.

1141 (l) The private prekindergarten provider shall be denied  
 1142 initial eligibility to offer the program if the provider has  
 1143 been cited for a Class I violation in the 12 months before

1144 seeking eligibility. An existing provider that is cited for a  
 1145 Class I violation may not have its eligibility renewed for 12  
 1146 months. This paragraph does not apply if the Office of Early  
 1147 Learning determines that the violation was reported by the  
 1148 provider and the employee responsible for the violation was  
 1149 terminated or the violation was corrected by the provider.

1150 (m) The private prekindergarten provider must deliver the  
 1151 Voluntary Prekindergarten Education Program in accordance with  
 1152 this part and have child disciplinary policies that prohibit  
 1153 children from being subjected to discipline that is severe,  
 1154 humiliating, frightening, or associated with food, rest,  
 1155 toileting, spanking, or any other form of physical punishment as  
 1156 provided in s. 402.305(12).

1157 ~~(4) A prekindergarten instructor, in lieu of the minimum~~  
 1158 ~~credentials and courses required under paragraph (3)(c), may~~  
 1159 ~~hold one of the following educational credentials:~~

1160 ~~(a) A bachelor's or higher degree in early childhood~~  
 1161 ~~education, prekindergarten or primary education, preschool~~  
 1162 ~~education, or family and consumer science;~~

1163 ~~(b) A bachelor's or higher degree in elementary education,~~  
 1164 ~~if the prekindergarten instructor has been certified to teach~~  
 1165 ~~children any age from birth through 6th grade, regardless of~~  
 1166 ~~whether the instructor's educator certificate is current, and if~~  
 1167 ~~the instructor is not ineligible to teach in a public school~~  
 1168 ~~because his or her educator certificate is suspended or revoked;~~

1169 ~~(c) An associate's or higher degree in child development;~~

1170 ~~(d) An associate's or higher degree in an unrelated field,~~  
 1171 ~~at least 6 credit hours in early childhood education or child~~  
 1172 ~~development, and at least 480 hours of experience in teaching or~~  
 1173 ~~providing child care services for children any age from birth~~  
 1174 ~~through 8 years of age; or~~

1175 ~~(e) An educational credential approved by the department~~  
 1176 ~~as being equivalent to or greater than an educational credential~~  
 1177 ~~described in this subsection. The department may adopt criteria~~  
 1178 ~~and procedures for approving equivalent educational credentials~~  
 1179 ~~under this paragraph.~~

1180 ~~(5) Notwithstanding paragraph (3)(b), a private~~  
 1181 ~~prekindergarten provider may not participate in the Voluntary~~  
 1182 ~~Prekindergarten Education Program if the provider has child~~  
 1183 ~~disciplinary policies that do not prohibit children from being~~  
 1184 ~~subjected to discipline that is severe, humiliating,~~  
 1185 ~~frightening, or associated with food, rest, toileting, spanking,~~  
 1186 ~~or any other form of physical punishment as provided in s.~~  
 1187 ~~402.305(12).~~

1188 Section 17. Subsection (1) of section 1002.59, Florida  
 1189 Statutes, is amended to read:

1190 1002.59 Emergent literacy and performance standards  
 1191 training courses.-

1192 (1) The office shall adopt minimum standards for one or  
 1193 more training courses in emergent literacy for prekindergarten  
 1194 instructors. Each course must comprise 5 clock hours and provide  
 1195 instruction in strategies and techniques to address the age-

1196 appropriate progress of prekindergarten students in developing  
 1197 emergent literacy skills, including oral communication,  
 1198 knowledge of print and letters, phonemic and phonological  
 1199 awareness, and vocabulary and comprehension development. Each  
 1200 course must also provide resources containing strategies that  
 1201 allow students with disabilities and other special needs to  
 1202 derive maximum benefit from the Voluntary Prekindergarten  
 1203 Education Program. Successful completion of an emergent literacy  
 1204 training course approved under this section satisfies  
 1205 requirements for approved training in early literacy and  
 1206 language development under ss. 402.305(2)(d)5., 402.313(4)(c)  
 1207 ~~402.313(6)~~, and 402.3131(5).

1208 Section 18. Paragraph (d) is added to subsection (3) of  
 1209 section 1002.61, Florida Statutes, and subsections (4) through  
 1210 (7) of that section are amended, to read:

1211 1002.61 Summer prekindergarten program delivered by public  
 1212 schools and private prekindergarten providers.—

1213 (3)

1214 (d) Each charter school authorized to deliver the  
 1215 prekindergarten program pursuant to its charter contract shall  
 1216 be considered part of the sponsor's overall prekindergarten  
 1217 program and must meet all requirements of this part applicable  
 1218 to prekindergarten programs delivered by public schools. The  
 1219 sponsor shall provide the same level of oversight of the charter  
 1220 school's prekindergarten program as it provides for other public  
 1221 schools in the school district. A charter school not authorized

1222 to deliver the summer prekindergarten program pursuant to its  
 1223 charter contract may deliver the program as a private provider  
 1224 in accordance with s. 1002.55 and this section.

1225 (4) ~~Notwithstanding ss. 1002.55(3)(c)1. and 1002.63(4),~~  
 1226 Each public school and private prekindergarten provider that  
 1227 delivers the summer prekindergarten program must have, for each  
 1228 prekindergarten class, at least one prekindergarten instructor  
 1229 who is a certified teacher or holds one of the educational  
 1230 credentials specified in s. 1002.55(3)(c)1.e.-h. ~~1002.55(4)(a)~~  
 1231 ~~or (b).~~ As used in this subsection, the term "certified teacher"  
 1232 means a teacher holding a valid Florida educator certificate  
 1233 under s. 1012.56 who has the qualifications required by the  
 1234 district school board to instruct students in the summer  
 1235 prekindergarten program. In selecting instructional staff for  
 1236 the summer prekindergarten program, each school district shall  
 1237 give priority to teachers who have experience or coursework in  
 1238 early childhood education.

1239 (5) Each prekindergarten instructor employed by a ~~public~~  
 1240 ~~school or~~ private prekindergarten provider delivering the summer  
 1241 prekindergarten program must be of good moral character, must  
 1242 undergo background screening pursuant to s. 402.305(2)(a) be  
 1243 ~~screened using the level 2 screening standards in s. 435.04~~  
 1244 before employment, must be ~~and~~ rescreened at least once every 5  
 1245 years, and must be denied employment or terminated if required  
 1246 under s. 435.06. Each prekindergarten instructor employed by a  
 1247 public school delivering the summer prekindergarten program, and

1248 | must satisfy the ~~not be ineligible to teach in a public school~~  
 1249 | ~~because his or her educator certificate is suspended or revoked.~~  
 1250 | ~~This subsection does not supersede~~ employment requirements for  
 1251 | instructional personnel in public schools as provided in s.  
 1252 | 1012.32 ~~which are more stringent than the requirements of this~~  
 1253 | ~~subsection.~~

1254 |           (6) A public school or private prekindergarten provider  
 1255 | may assign a substitute instructor to temporarily replace a  
 1256 | credentialed instructor if the credentialed instructor assigned  
 1257 | to a prekindergarten class is absent, as long as the substitute  
 1258 | instructor meets the requirements of subsection (5) ~~is of good~~  
 1259 | ~~moral character and has been screened before employment in~~  
 1260 | ~~accordance with level 2 background screening requirements in~~  
 1261 | ~~chapter 435. This subsection does not supersede employment~~  
 1262 | ~~requirements for instructional personnel in public schools which~~  
 1263 | ~~are more stringent than the requirements of this subsection.~~ The  
 1264 | Office of Early Learning shall adopt rules to implement this  
 1265 | subsection which shall include required qualifications of  
 1266 | substitute instructors and the circumstances and time limits for  
 1267 | which a public school or private prekindergarten provider may  
 1268 | assign a substitute instructor.

1269 |           (7) Notwithstanding ss. 1002.55(3)(d) ~~1002.55(3)(f)~~ and  
 1270 | 1002.63(7), each prekindergarten class in the summer  
 1271 | prekindergarten program, regardless of whether the class is a  
 1272 | public school's or private prekindergarten provider's class,  
 1273 | must be composed of at least 4 students but may not exceed 12

1274 | students ~~beginning with the 2009 summer session~~. In order to  
 1275 | protect the health and safety of students, each public school or  
 1276 | private prekindergarten provider must also provide appropriate  
 1277 | adult supervision for students at all times. This subsection  
 1278 | does not supersede any requirement imposed on a provider under  
 1279 | ss. 402.301-402.319.

1280 |       Section 19. Paragraph (c) is added to subsection (3) of  
 1281 | section 1002.63, Florida Statutes, and subsections (5) and (6)  
 1282 | of that section are amended, to read:

1283 |       1002.63 School-year prekindergarten program delivered by  
 1284 | public schools.—

1285 |       (3)

1286 |       (c) Each charter school authorized to deliver the  
 1287 | prekindergarten program pursuant to its charter contract shall  
 1288 | be considered part of the sponsor's overall prekindergarten  
 1289 | program and must meet all requirements of this part applicable  
 1290 | to prekindergarten programs delivered by public schools. The  
 1291 | sponsor shall provide the same level of oversight of the charter  
 1292 | school's prekindergarten program as it provides for other public  
 1293 | schools in the school district. A charter school not authorized  
 1294 | to deliver the prekindergarten program pursuant to its charter  
 1295 | contract may deliver the program as a private provider in  
 1296 | accordance with s. 1002.55.

1297 |       (5) Each prekindergarten instructor employed by a public  
 1298 | school delivering the school-year prekindergarten program must  
 1299 | satisfy the ~~be of good moral character, must be screened using~~



1300 ~~the level 2 screening standards in s. 435.04 before employment~~  
 1301 ~~and rescreened at least once every 5 years, must be denied~~  
 1302 ~~employment or terminated if required under s. 435.06, and must~~  
 1303 ~~not be ineligible to teach in a public school because his or her~~  
 1304 ~~educator certificate is suspended or revoked. This subsection~~  
 1305 ~~does not supersede~~ employment requirements for instructional  
 1306 personnel in public schools as provided in s. 1012.32 ~~which are~~  
 1307 ~~more stringent than the requirements of this subsection.~~

1308 (6) A public school prekindergarten provider may assign a  
 1309 substitute instructor to temporarily replace a credentialed  
 1310 instructor if the credentialed instructor assigned to a  
 1311 prekindergarten class is absent, as long as the substitute  
 1312 instructor meets the requirements of subsection (5) ~~is of good~~  
 1313 ~~moral character and has been screened before employment in~~  
 1314 ~~accordance with level 2 background screening requirements in~~  
 1315 ~~chapter 435. This subsection does not supersede employment~~  
 1316 ~~requirements for instructional personnel in public schools which~~  
 1317 ~~are more stringent than the requirements of this subsection.~~ The  
 1318 Office of Early Learning shall adopt rules to implement this  
 1319 subsection which shall include required qualifications of  
 1320 substitute instructors and the circumstances and time limits for  
 1321 which a public school prekindergarten provider may assign a  
 1322 substitute instructor.

1323 Section 20. Paragraph (a) of subsection (6) of section  
 1324 1002.71, Florida Statutes, is amended to read:

1325 1002.71 Funding; financial and attendance reporting.-

1326 (6) (a) Each parent enrolling his or her child in the  
 1327 Voluntary Prekindergarten Education Program must agree to comply  
 1328 with the attendance policy of the private prekindergarten  
 1329 provider or district school board, as applicable. Upon  
 1330 enrollment of the child, the private prekindergarten provider or  
 1331 public school, as applicable, must provide the child's parent  
 1332 with program information, including, but not limited to, child  
 1333 development, expectations for parent engagement, the daily  
 1334 schedule, and the ~~a copy of the provider's or school district's~~  
 1335 attendance policy, which must include procedures for contacting  
 1336 a parent on the 2nd consecutive day a child is absent for which  
 1337 the reason is unknown as applicable.

1338 Section 21. Subsection (1) of section 1002.75, Florida  
 1339 Statutes, is amended to read:

1340 1002.75 Office of Early Learning; powers and duties.—

1341 (1) The Office of Early Learning shall adopt by rule a  
 1342 standard statewide provider contract to be used with each  
 1343 Voluntary Prekindergarten Education Program provider, with  
 1344 standardized attachments by provider type. The office shall  
 1345 publish a copy of the standard statewide provider contract on  
 1346 its website. The standard statewide contract shall include, at a  
 1347 minimum, provisions that:

1348 (a) Govern ~~for~~ provider probation, termination for cause,  
 1349 and emergency termination for those actions or inactions of a  
 1350 provider that pose an immediate and serious danger to the  
 1351 health, safety, or welfare of children. The standard statewide

1352 contract shall also include appropriate due process procedures.  
 1353 During the pendency of an appeal of a termination, the provider  
 1354 may not continue to offer its services.

1355 (b) Require each private prekindergarten provider to  
 1356 notify the parent of each child in care if it is cited for a  
 1357 Class I violation as defined by rule of the Department of  
 1358 Children and Families. Such notice shall describe each violation  
 1359 with specificity, in simple language, and include a copy of the  
 1360 citation and the contact information of the Department of  
 1361 Children and Families or local licensing agency where the parent  
 1362 may obtain additional information regarding the citation. Notice  
 1363 of a Class I violation by the provider must be provided  
 1364 electronically or in writing to the parent within 24 hours after  
 1365 receipt of the citation. A private prekindergarten provider must  
 1366 conspicuously post each citation for a violation that results in  
 1367 disciplinary action on the premises in an area visible to  
 1368 parents pursuant to s. 402.3125(1)(b). Additionally, such a  
 1369 provider must post each inspection report on the premises in an  
 1370 area visible to parents, which report must remain posted until  
 1371 the next inspection report is available.

1372 (c) Specify that child care personnel employed by the  
 1373 provider who are responsible for supervising children in care  
 1374 must be trained in developmentally appropriate practices aligned  
 1375 to the age and needs of children over which the personnel are  
 1376 assigned supervision duties. This requirement is met by  
 1377 completion of developmentally appropriate practice courses

1378 administered by the Department of Children and Families under s.  
 1379 402.305(2)(d)1. within 30 days after being assigned to children  
 1380 for which developmentally appropriate practice training has not  
 1381 been completed by the personnel.

1382

1383 Any provision imposed upon a provider that is inconsistent with,  
 1384 or prohibited by, law is void and unenforceable.

1385 Section 22. Section 1002.77, Florida Statutes, is amended  
 1386 to read:

1387 1002.77 Florida Early Learning Advisory Council.—

1388 (1) There is created the Florida Early Learning Advisory  
 1389 Council within the Office of Early Learning. The purpose of the  
 1390 advisory council is to provide written input ~~submit~~  
 1391 ~~recommendations~~ to the executive director ~~office~~ on early  
 1392 learning best practices, including ~~recommendations relating to~~  
 1393 ~~the most~~ effective program administration; ~~of the Voluntary~~  
 1394 ~~Prekindergarten Education Program under this part and the school~~  
 1395 ~~readiness program under part VI of this chapter. The advisory~~  
 1396 ~~council shall periodically analyze and provide recommendations~~  
 1397 ~~to the office on the~~ effective and efficient use of local,  
 1398 state, and federal funds; ~~the content of professional~~  
 1399 ~~development training programs; and best practices for the~~  
 1400 ~~development and implementation of coalition plans pursuant to s.~~  
 1401 1002.85.

1402 (2) The advisory council shall be composed of the  
 1403 following members:

- 1404 (a) The chair of the advisory council who shall be  
 1405 appointed by and serve at the pleasure of the Governor.  
 1406 (b) The chair of each early learning coalition.  
 1407 (c) One member who shall be appointed by and serve at the  
 1408 pleasure of the President of the Senate.  
 1409 (d) One member who shall be appointed by and serve at the  
 1410 pleasure of the Speaker of the House of Representatives.

1411  
 1412 The chair of the advisory council appointed by the Governor and  
 1413 the members appointed by the presiding officers of the  
 1414 Legislature must be from the business community and be in  
 1415 compliance with s. 1002.83(5).

1416 (3) The advisory council shall meet at least quarterly  
 1417 upon the call of the executive director ~~but may meet as often as~~  
 1418 ~~necessary to carry out its duties and responsibilities.~~ The  
 1419 executive director is encouraged to advisory council may use  
 1420 communications media technology any method of telecommunications  
 1421 to conduct meetings in accordance with s. 120.54(5)(b)~~7~~  
 1422 ~~including establishing a quorum through telecommunications, only~~  
 1423 ~~if the public is given proper notice of a telecommunications~~  
 1424 ~~meeting and reasonable access to observe and, when appropriate,~~  
 1425 ~~participate.~~

1426 (4)(a) Each member of the advisory council may ~~shall~~ serve  
 1427 without compensation but is entitled to receive reimbursement  
 1428 for per diem and travel expenses for attendance at council  
 1429 meetings as provided in s. 112.061.

1430 (b) Each member of the advisory council is subject to the  
 1431 ethics provisions in part III of chapter 112.

1432 (c) For purposes of tort liability, each member of the  
 1433 advisory council shall be governed by s. 768.28.

1434 (5) The Office of Early Learning shall provide staff and  
 1435 administrative support for the advisory council as determined by  
 1436 the executive director.

1437 Section 23. Paragraph (f) of subsection (1) and  
 1438 subsections (8) and (16) of section 1002.81, Florida Statutes,  
 1439 are amended to read:

1440 1002.81 Definitions.—Consistent with the requirements of  
 1441 45 C.F.R. parts 98 and 99 and as used in this part, the term:

1442 (1) "At-risk child" means:

1443 (f) A child in the custody of a parent who is considered  
 1444 homeless as verified by a designated lead agency on the homeless  
 1445 assistance continuum of care established under ss. 420.622-  
 1446 420.624 Department of Children and Families certified homeless  
 1447 shelter.

1448 (8) "Family income" means the combined gross income,  
 1449 whether earned or unearned, that is derived from any source by  
 1450 all family or household members who are 18 years of age or older  
 1451 who are currently residing together in the same dwelling unit.  
 1452 The term does not include:

1453 (a) Income earned by a currently enrolled high school  
 1454 student who, since attaining the age of 18 years, or a student  
 1455 with a disability who, since attaining the age of 22 years, has

1456 not terminated school enrollment or received a high school  
 1457 diploma, high school equivalency diploma, special diploma, or  
 1458 certificate of high school completion.

1459 (b) Income earned by a teen parent residing in the same  
 1460 residence as a separate family unit.

1461 (c) Selected items from the Child Care and Development  
 1462 Fund state plan, such as ~~The term also does not include~~ food  
 1463 stamp benefits, documented child support and alimony payments  
 1464 paid out of the home, or federal housing assistance payments  
 1465 issued directly to a landlord or the associated utilities  
 1466 expenses.

1467 (16) "Working family" means:

1468 (a) A single-parent family in which the parent with whom  
 1469 the child resides is employed or engaged in eligible work or  
 1470 education activities for at least 20 hours per week or is exempt  
 1471 from work requirements due to age or disability, as determined  
 1472 and documented by a physician licensed under chapter 458 or  
 1473 chapter 459;

1474 (b) A two-parent family in which both parents with whom  
 1475 the child resides are employed or engaged in eligible work or  
 1476 education activities for a combined total of at least 40 hours  
 1477 per week; ~~or~~

1478 (c) A two-parent family in which one of the parents with  
 1479 whom the child resides is exempt from work requirements due to  
 1480 age or disability, as determined and documented by a physician  
 1481 licensed under chapter 458 or chapter 459, and one parent is

1482 employed or engaged in eligible work or education activities at  
 1483 least 20 hours per week; or

1484 (d) A two-parent family in which both of the parents with  
 1485 whom the child resides are exempt from work requirements due to  
 1486 age or disability, as determined and documented by a physician  
 1487 licensed under chapter 458 or chapter 459.

1488 Section 24. Paragraphs (b), (j), (m), and (p) of  
 1489 subsection (2) of section 1002.82, Florida Statutes, are amended  
 1490 to read:

1491 1002.82 Office of Early Learning; powers and duties.—

1492 (2) The office shall:

1493 (b) Preserve parental choice by permitting parents to  
 1494 choose from a variety of child care categories authorized in s.  
 1495 1002.88(1)(a), including center-based care, family child care,  
 1496 and informal child care to the extent authorized in the state's  
 1497 Child Care and Development Fund Plan as approved by the United  
 1498 States Department of Health and Human Services pursuant to 45  
 1499 C.F.R. s. 98.18. Care and curriculum by a faith-based provider  
 1500 may not be limited or excluded in any of these categories.

1501 (j) Develop and adopt standards and benchmarks that  
 1502 address the age-appropriate progress of children in the  
 1503 development of child care and development ~~school readiness~~  
 1504 skills. The standards for children from birth to 5 years of age  
 1505 in the child care and development ~~school readiness~~ program must  
 1506 be aligned with the performance standards adopted for children  
 1507 in the Voluntary Prekindergarten Education Program and must



1508 address the following domains:

- 1509 1. Approaches to learning.
- 1510 2. Cognitive development and general knowledge.
- 1511 3. Numeracy, language, and communication.
- 1512 4. Physical development.
- 1513 5. Self-regulation.

1514

1515 By July 1, 2015, the Office of Early Learning shall develop and  
 1516 implement an online training course on the performance standards  
 1517 for child care and development program provider personnel.

1518 (m) Adopt by rule a standard statewide provider contract  
 1519 to be used with each child care and development ~~school readiness~~  
 1520 program provider, with standardized attachments by provider  
 1521 type. The office shall publish a copy of the standard statewide  
 1522 provider contract on its website. The standard statewide  
 1523 contract shall include, at a minimum, provisions that:

1524 1. Govern ~~for~~ provider probation, termination for cause,  
 1525 and emergency termination for those actions or inactions of a  
 1526 provider that pose an immediate and serious danger to the  
 1527 health, safety, or welfare of the children. The standard  
 1528 statewide provider contract shall also include appropriate due  
 1529 process procedures. During the pendency of an appeal of a  
 1530 termination, the provider may not continue to offer its  
 1531 services.

1532 2. Require each provider that is eligible to provide the  
 1533 program pursuant to s. 1002.88(1)(a) to notify the parent of

1534 each child in care if it is cited for a Class I violation as  
 1535 defined by rule of the Department of Children and Families. Such  
 1536 notice shall describe each violation with specificity, in simple  
 1537 language, and include a copy of the citation and the contact  
 1538 information of the Department of Children and Families or local  
 1539 licensing agency where the parent may obtain additional  
 1540 information regarding the citation. Notice of a Class I  
 1541 violation by the provider must be provided electronically or in  
 1542 writing to the parent within 24 hours after receipt of the  
 1543 citation. A provider must conspicuously post each citation for a  
 1544 violation that results in disciplinary action on the premises in  
 1545 an area visible to parents pursuant to s. 402.3125(1)(b).

1546 Additionally, such a provider must post each inspection report  
 1547 on the premises in an area visible to parents, which report must  
 1548 remain posted until the next inspection report is available.

1549 3. Specify that child care personnel employed by the  
 1550 provider who are responsible for supervising children in care  
 1551 must be trained in developmentally appropriate practices aligned  
 1552 to the age and needs of children over which the personnel are  
 1553 assigned supervision duties. This requirement is met by  
 1554 completion of developmentally appropriate practice courses  
 1555 administered by the Department of Children and Families under s.  
 1556 402.305(2)(d)1. within 30 days after being assigned to children  
 1557 for which developmentally appropriate practice training has not  
 1558 been completed by the personnel.

1559 4. Require child care personnel who are employed by the

1560 provider to complete an online training course on the  
 1561 performance standards adopted pursuant to paragraph (j).

1562  
 1563 Any provision imposed upon a provider that is inconsistent with,  
 1564 or prohibited by, law is void and unenforceable.

1565 (p) Monitor and evaluate the performance of each early  
 1566 learning coalition in administering the child care and  
 1567 development school-readiness program and the Voluntary  
 1568 Prekindergarten Education Program, ensuring proper payments for  
 1569 child care and development school-readiness program and  
 1570 Voluntary Prekindergarten Education Program services, and  
 1571 implementing the coalition's child care and development school-  
 1572 readiness program plan, ~~and administering the Voluntary~~  
 1573 ~~Prekindergarten Education Program~~. These monitoring and  
 1574 performance evaluations must include, at a minimum, onsite  
 1575 monitoring of each coalition's finances, management, operations,  
 1576 and programs.

1577 Section 25. Subsections (8) and (20) of section 1002.84,  
 1578 Florida Statutes, are amended to read:

1579 1002.84 Early learning coalitions; child care and  
 1580 development school-readiness powers and duties.—Each early  
 1581 learning coalition shall:

1582 (8) Establish a parent sliding fee scale that requires a  
 1583 parent copayment to participate in the child care and  
 1584 development school-readiness program. Providers are required to  
 1585 collect the parent's copayment. A coalition may, on a case-by-

1586 case basis, waive the copayment for an at-risk child or  
 1587 temporarily waive the copayment for a child whose family's  
 1588 income is at or below the federal poverty level and family  
 1589 experiences a natural disaster or an event that limits the  
 1590 parent's ability to pay, such as incarceration, placement in  
 1591 residential treatment, ~~or becoming homeless,~~ or an emergency  
 1592 situation such as a household fire or burglary, or while the  
 1593 parent is participating in parenting classes. A parent may not  
 1594 transfer child care and development ~~school readiness~~ program  
 1595 services to another child care and development ~~school readiness~~  
 1596 program provider until the parent has submitted documentation  
 1597 from the current child care and development ~~school readiness~~  
 1598 program provider to the early learning coalition stating that  
 1599 the parent has satisfactorily fulfilled the copayment  
 1600 obligation.

1601 (20) To increase transparency and accountability, comply  
 1602 with ~~the requirements of~~ this section before contracting with a  
 1603 member of the coalition, an employee of the coalition, or a  
 1604 relative, as defined in s. 112.3143(1)(b), of a coalition member  
 1605 or of an employee of the coalition. Such contracts may not be  
 1606 executed without the approval of the office. Such contracts, as  
 1607 well as documentation demonstrating adherence to this section by  
 1608 the coalition, must be approved by a two-thirds vote of the  
 1609 coalition, a quorum having been established; all conflicts of  
 1610 interest must be disclosed before the vote; and any member who  
 1611 may benefit from the contract, or whose relative may benefit

1612 from the contract, must abstain from the vote. A contract under  
 1613 \$25,000 between an early learning coalition and a member of that  
 1614 coalition or between a relative, as defined in s.  
 1615 112.3143(1)(b), of a coalition member or of an employee of the  
 1616 coalition is not required to have the prior approval of the  
 1617 office but must be approved by a two-thirds vote of the  
 1618 coalition, a quorum having been established, and must be  
 1619 reported to the office within 30 days after approval. If a  
 1620 contract cannot be approved by the office, a review of the  
 1621 decision to disapprove the contract may be requested by the  
 1622 early learning coalition or other parties to the disapproved  
 1623 contract.

1624 Section 26. Subsections (1), (6), (7), and (8) of section  
 1625 1002.87, Florida Statutes, are amended to read:

1626 1002.87 Child care and development ~~School readiness~~  
 1627 program; eligibility and enrollment.-

1628 (1) Effective August 1, 2013, or upon reevaluation of  
 1629 eligibility for children currently served, whichever is later,  
 1630 each early learning coalition shall give priority for  
 1631 participation in the child care and development ~~school readiness~~  
 1632 program as follows:

1633 (a) Priority shall be given first to a child younger than  
 1634 13 years of age from a family that includes a parent who is  
 1635 receiving temporary cash assistance under chapter 414 and  
 1636 subject to the federal work requirements.

1637 (b) Priority shall be given next to an at-risk child

1638 | younger than 9 years of age.

1639 |       (c) Priority shall be given next to a child from birth to  
 1640 | the beginning of the school year for which the child is eligible  
 1641 | for admission to kindergarten in a public school under s.  
 1642 | 1003.21(1)(a)2. who is from a working family that is  
 1643 | economically disadvantaged, and may include such child's  
 1644 | eligible siblings, beginning with the school year in which the  
 1645 | sibling is eligible for admission to kindergarten in a public  
 1646 | school under s. 1003.21(1)(a)2. until the beginning of the  
 1647 | school year in which the sibling enters ~~is eligible to begin~~ 6th  
 1648 | grade, provided that the first priority for funding an eligible  
 1649 | sibling is local revenues available to the coalition for funding  
 1650 | direct services. However, a child eligible under this paragraph  
 1651 | ceases to be eligible if his or her family income exceeds 200  
 1652 | percent of the federal poverty level.

1653 |       (d) Priority shall be given next to a child of a parent  
 1654 | who transitions from the work program into employment as  
 1655 | described in s. 445.032 from birth to the beginning of the  
 1656 | school year for which the child is eligible for admission to  
 1657 | kindergarten in a public school under s. 1003.21(1)(a)2.

1658 |       (e) Priority shall be given next to an at-risk child who  
 1659 | is at least 9 years of age but younger than 13 years of age. An  
 1660 | at-risk child whose sibling is enrolled in the school readiness  
 1661 | program within an eligibility priority category listed in  
 1662 | paragraphs (a)-(c) shall be given priority over other children  
 1663 | who are eligible under this paragraph.

1664 (f) Priority shall be given next to a child who is younger  
 1665 than 13 years of age from a working family that is economically  
 1666 disadvantaged. A child who is eligible under this paragraph  
 1667 whose sibling is enrolled in the school readiness program under  
 1668 paragraph (c) shall be given priority over other children who  
 1669 are eligible under this paragraph. However, a child eligible  
 1670 under this paragraph ceases to be eligible if his or her family  
 1671 income exceeds 200 percent of the federal poverty level.

1672 (g) Priority shall be given next to a child of a parent  
 1673 who transitions from the work program into employment as  
 1674 described in s. 445.032 who is younger than 13 years of age.

1675 (h) Priority shall be given next to a child who ~~has~~  
 1676 ~~special needs,~~ has been determined eligible as an infant or  
 1677 toddler from birth to 3 years of age with an individualized  
 1678 family support plan receiving early intervention services or ~~as~~  
 1679 a student with a disability with, ~~has~~ a current individual  
 1680 education plan with a Florida school district, ~~and is not~~  
 1681 ~~younger than 3 years of age.~~ A ~~special needs~~ child eligible  
 1682 under this paragraph remains eligible until the child is  
 1683 eligible for admission to kindergarten in a public school under  
 1684 s. 1003.21(1)(a)2.

1685 (i) Notwithstanding paragraphs (a)-(d), priority shall be  
 1686 given last to a child who otherwise meets one of the eligibility  
 1687 criteria in paragraphs (a)-(d) but who is also enrolled  
 1688 concurrently in the federal Head Start Program and the Voluntary  
 1689 Prekindergarten Education Program.

1690 (6) Eligibility for each child must be reevaluated  
 1691 annually. Upon reevaluation, a child may not continue to receive  
 1692 child care and development ~~school readiness~~ program services if  
 1693 he or she has ceased to be eligible under this section. If a  
 1694 child no longer meets eligibility or program requirements, the  
 1695 coalition must immediately notify the child's parent and the  
 1696 provider that funding will end 2 weeks after the date on which  
 1697 the child was determined to be ineligible or when the current  
 1698 child care authorization expires, whichever occurs first.

1699 (7) If a coalition disenrolls children from the child care  
 1700 and development ~~school readiness~~ program due to lack of funding  
 1701 or a change in eligibility priorities, the coalition must  
 1702 disenroll the children in reverse order of the eligibility  
 1703 priorities listed in subsection (1) beginning with children from  
 1704 families with the highest family incomes. A notice of  
 1705 disenrollment must be sent to the parent and child care and  
 1706 development ~~school readiness~~ program provider at least 2 weeks  
 1707 before disenrollment or the expiration of the current child care  
 1708 authorization, whichever occurs first, to provide adequate time  
 1709 for the parent to arrange alternative care for the child.  
 1710 However, an at-risk child receiving services from the Child  
 1711 Welfare Program Office of the Department of Children and  
 1712 Families may not be disenrolled from the program without the  
 1713 written approval of the Child Welfare Program Office ~~of the~~  
 1714 ~~Department of Children and Families~~ or the community-based lead  
 1715 agency.



1716           (8) If a child is absent from the program for 2  
 1717 consecutive days without parental notification to the program of  
 1718 such absence, the child care and development program provider  
 1719 shall contact the parent and determine the cause for absence and  
 1720 expected date of return. If a child is absent from the program  
 1721 for 5 consecutive days without parental notification to the  
 1722 program of such absence, the child care and development ~~school~~  
 1723 ~~readiness~~ program provider shall report the absence to the early  
 1724 learning coalition for a determination of the need for continued  
 1725 care.

1726           Section 27. Section 1002.88, Florida Statutes, is amended  
 1727 to read:

1728           1002.88 Child care and development ~~School-readiness~~  
 1729 program provider standards; eligibility to deliver the child  
 1730 care and development ~~school-readiness~~ program.-

1731           (1) To be eligible to deliver the child care and  
 1732 development ~~school-readiness~~ program, a child care and  
 1733 development ~~school-readiness~~ program provider must:

1734           (a) 1. Be a nonpublic school in substantial compliance with  
 1735 s. 402.3025(2)(d), a child care facility licensed under s.  
 1736 402.305, a family child day care home licensed ~~or registered~~  
 1737 under s. 402.313, a large family child care home licensed under  
 1738 s. 402.3131, or a child care facility exempt from licensure  
 1739 operating under s. 402.316(4); or

1740           2. Be an entity that is part of Florida's education system  
 1741 under s. 1000.04(1) a ~~public school or nonpublic school exempt~~

1742 ~~from licensure under s. 402.3025, a faith-based child care~~  
 1743 ~~provider exempt from licensure under s. 402.316, a before-school~~  
 1744 ~~or after-school program described in s. 402.305(1)(c), or an~~  
 1745 ~~informal child care provider to the extent authorized in the~~  
 1746 ~~state's Child Care and Development Fund Plan as approved by the~~  
 1747 ~~United States Department of Health and Human Services pursuant~~  
 1748 ~~to 45 C.F.R. s. 98.18.~~

1749 (b) Provide instruction and activities to enhance the age-  
 1750 appropriate progress of each child in attaining the child  
 1751 development standards adopted by the office pursuant to s.  
 1752 1002.82(2)(j). A provider should include activities to foster  
 1753 brain development in infants and toddlers; provide an  
 1754 environment that is rich in language and music and filled with  
 1755 objects of various colors, shapes, textures, and sizes to  
 1756 stimulate visual, tactile, auditory, and linguistic senses; and  
 1757 include 30 minutes of reading to children each day. A provider  
 1758 must provide parents information on child development,  
 1759 expectations for parent engagement, the daily schedule, and the  
 1760 attendance policy.

1761 (c) Provide basic health and safety of its premises and  
 1762 facilities in accordance with applicable licensing and  
 1763 inspection requirements and compliance with requirements for  
 1764 ~~age-appropriate immunizations of children enrolled in the school~~  
 1765 ~~readiness program.~~ For a child care facility, a large family  
 1766 child care home, or a licensed family child day care home,  
 1767 compliance with s. 402.305, s. 402.3131, or s. 402.313 satisfies

1768 this requirement. For a public ~~or nonpublic~~ school, compliance  
 1769 with ss. s. 402.3025 ~~or s. 1003.22~~ and 1013.12 satisfies this  
 1770 requirement. For a nonpublic school, compliance with s.  
 1771 402.3025(2)(d) satisfies this requirement. For a facility exempt  
 1772 from licensure, compliance with s. 402.316(4) satisfies this  
 1773 requirement. A provider shall be denied initial eligibility to  
 1774 offer the program if the provider has been cited for a Class I  
 1775 violation in the 12 months before seeking eligibility. An  
 1776 existing provider that is cited for a Class I violation may not  
 1777 have its eligibility renewed for 12 months. A provider that is  
 1778 cited for a Class I violation may remain eligible to deliver the  
 1779 program if the Office of Early Learning determines that the  
 1780 violation was reported by the provider and the employee  
 1781 responsible for the violation was terminated or the violation  
 1782 was corrected by the provider. A faith-based child care  
 1783 provider, an informal child care provider, or a nonpublic  
 1784 school, exempt from licensure under s. 402.316 or s. 402.3025,  
 1785 shall annually complete the health and safety checklist adopted  
 1786 by the office, post the checklist prominently on its premises in  
 1787 plain sight for visitors and parents, and submit it annually to  
 1788 its local early learning coalition.

1789 (d) Provide an appropriate staff-to-children ratio,  
 1790 pursuant to s. 402.305(4) or s. 402.302(8) or (11), as  
 1791 applicable, and as verified pursuant to s. 402.311.

1792 (e) Provide a healthy and safe environment pursuant to s.  
 1793 402.305(5), (6), and (7), as applicable, and as verified

1794 pursuant to s. 402.311.

1795 (f) Implement one of the curricula approved by the office  
 1796 that meets the child development standards.

1797 (g) Implement a character development program to develop  
 1798 basic values.

1799 (h) Collaborate with the respective early learning  
 1800 coalition to complete initial screening for each child, aged 6  
 1801 weeks to kindergarten eligibility, within 45 days after the  
 1802 child's first or subsequent enrollment, to identify a child who  
 1803 may need individualized supports.

1804 (i) Implement minimum standards for child discipline  
 1805 practices that are age-appropriate and consistent with the  
 1806 requirements in s. 402.305(12). Such standards must provide that  
 1807 children not be subjected to discipline that is severe,  
 1808 humiliating, or frightening or discipline that is associated  
 1809 with food, rest, or toileting. Spanking or any other form of  
 1810 physical punishment is prohibited.

1811 (j) Obtain and keep on file record of the child's  
 1812 immunizations, physical development, and other health  
 1813 requirements as necessary, including appropriate vision and  
 1814 hearing screening and examination, within 30 days after  
 1815 enrollment.

1816 (k) Implement before-school or after-school programs that  
 1817 meet or exceed the requirements of s. 402.305(5), (6), and (7).

1818 (l) ~~For a provider that is not an informal provider,~~  
 1819 Maintain general liability insurance and provide the coalition

1820 with written evidence of general liability insurance coverage,  
 1821 including coverage for transportation of children if child care  
 1822 and development ~~school readiness~~ program children are  
 1823 transported by the provider. A private provider must obtain and  
 1824 retain an insurance policy that provides a minimum of \$100,000  
 1825 of coverage per occurrence and a minimum of \$300,000 general  
 1826 aggregate coverage. The office may authorize lower limits upon  
 1827 request, as appropriate. ~~A provider must add the coalition as a~~  
 1828 ~~named certificateholder and as an additional insured.~~ A private  
 1829 provider must provide the coalition with a minimum of 10  
 1830 calendar days' advance written notice of cancellation of or  
 1831 changes to coverage. The general liability insurance required by  
 1832 this paragraph must remain in full force and effect for the  
 1833 entire period of the provider contract with the coalition.

1834 ~~(m) For a provider that is an informal provider, comply~~  
 1835 ~~with the provisions of paragraph (l) or maintain homeowner's~~  
 1836 ~~liability insurance and, if applicable, a business rider. If an~~  
 1837 ~~informal provider chooses to maintain a homeowner's policy, the~~  
 1838 ~~provider must obtain and retain a homeowner's insurance policy~~  
 1839 ~~that provides a minimum of \$100,000 of coverage per occurrence~~  
 1840 ~~and a minimum of \$300,000 general aggregate coverage. The office~~  
 1841 ~~may authorize lower limits upon request, as appropriate. An~~  
 1842 ~~informal provider must add the coalition as a named~~  
 1843 ~~certificateholder and as an additional insured. An informal~~  
 1844 ~~provider must provide the coalition with a minimum of 10~~  
 1845 ~~calendar days' advance written notice of cancellation of or~~

1846 ~~changes to coverage. The general liability insurance required by~~  
 1847 ~~this paragraph must remain in full force and effect for the~~  
 1848 ~~entire period of the provider's contract with the coalition.~~

1849 (m) ~~(n)~~ Obtain and maintain any required workers'  
 1850 compensation insurance under chapter 440 and any required  
 1851 reemployment assistance or unemployment compensation coverage  
 1852 under chapter 443, unless exempt under state or federal law.

1853 (n) ~~(o)~~ Notwithstanding paragraph (1), for a provider that  
 1854 is a state agency or a subdivision thereof, as defined in s.  
 1855 768.28(2), agree to notify the coalition of any additional  
 1856 liability coverage maintained by the provider in addition to  
 1857 that otherwise established under s. 768.28. The provider shall  
 1858 indemnify the coalition to the extent permitted by s. 768.28.

1859 (o) ~~(p)~~ Execute the standard statewide provider contract  
 1860 adopted by the office.

1861 (p) ~~(q)~~ Operate on a full-time and part-time basis and  
 1862 provide extended-day and extended-year services to the maximum  
 1863 extent possible without compromising the quality of the program  
 1864 to meet the needs of parents who work.

1865 (2) Beginning January 1, 2016, child care personnel  
 1866 employed by a child care and development program provider must  
 1867 hold a high school diploma or its equivalent and be at least 18  
 1868 years of age, unless the personnel are not responsible for  
 1869 supervising children in care or are under direct supervision and  
 1870 are not counted for the purposes of computing the personnel-to-  
 1871 child ratio.

1872           (3) Beginning January 1, 2015, child care personnel  
 1873 employed by a child care and development program provider must  
 1874 be trained in first aid and infant and child cardiopulmonary  
 1875 resuscitation, as evidenced by current documentation of course  
 1876 completion, unless the personnel are not responsible for  
 1877 supervising children in care. As a condition of employment,  
 1878 personnel hired on or after January 1, 2015, must complete this  
 1879 training within 30 days after employment.

1880           ~~(4)(2)~~ If a child care and development ~~school-readiness~~  
 1881 program provider fails or refuses to comply with this part or  
 1882 any contractual obligation of the statewide provider contract  
 1883 under s. 1002.82(2)(m), the coalition may revoke the provider's  
 1884 eligibility to deliver the child care and development ~~school-~~  
 1885 ~~readiness~~ program or receive state or federal funds under this  
 1886 chapter for ~~a period of~~ 5 years.

1887           ~~(5)(3)~~ The office and the coalitions may not:

1888           (a) Impose any requirement on a child care provider or  
 1889 early childhood education provider that does not deliver  
 1890 services under the child care and development ~~school-readiness~~  
 1891 program or receive state or federal funds under this part;

1892           (b) Impose any requirement on a child care and development  
 1893 ~~school-readiness~~ program provider that exceeds the authority  
 1894 provided under this part or part V of this chapter or rules  
 1895 adopted pursuant to this part or part V of this chapter; or

1896           (c) Require a provider to administer a preassessment or  
 1897 postassessment.

1898 Section 28. Subsections (6) and (7) of section 1002.89,  
 1899 Florida Statutes, are amended to read:

1900 1002.89 Child care and development ~~School readiness~~  
 1901 program; funding.-

1902 (6) Costs shall be kept to the minimum necessary for the  
 1903 efficient and effective administration of the child care and  
 1904 development ~~school readiness~~ program with the highest priority  
 1905 of expenditure being direct services for eligible children.

1906 However, no more than 5 percent of the funds described in  
 1907 subsection (5) may be used for administrative costs and no more  
 1908 than 22 percent of the funds described in subsection (5) may be  
 1909 used in any fiscal year for any combination of administrative  
 1910 costs, quality activities, and nondirect services as follows:

1911 (a) Administrative costs as described in 45 C.F.R. s.  
 1912 98.52, which shall include monitoring providers using the  
 1913 standard methodology adopted under s. 1002.82 to improve  
 1914 compliance with state and federal regulations and law pursuant  
 1915 to the requirements of the statewide provider contract adopted  
 1916 under s. 1002.82(2)(m).

1917 (b) Activities to improve the quality of child care as  
 1918 described in 45 C.F.R. s. 98.51, which shall be limited to the  
 1919 following:

1920 1. Developing, establishing, expanding, operating, and  
 1921 coordinating resource and referral programs specifically related  
 1922 to the provision of comprehensive consumer education to parents  
 1923 and the public to promote informed child care choices specified



1924 | ~~in 45 C.F.R. s. 98.33 regarding participation in the school~~  
 1925 | ~~readiness program and parental choice.~~

1926 |       2. Awarding grants and providing financial support to  
 1927 | child care and development school readiness program providers  
 1928 | and their staff to assist them in meeting applicable state  
 1929 | requirements for child care performance standards, implementing  
 1930 | developmentally appropriate curricula and related classroom  
 1931 | resources that support curricula, providing literacy supports,  
 1932 | obtaining a license or accreditation, and providing professional  
 1933 | development, including scholarships and other incentives. Any  
 1934 | grants awarded pursuant to this subparagraph shall comply with  
 1935 | ~~the requirements of~~ ss. 215.971 and 287.058.

1936 |       3. Providing training, ~~and~~ technical assistance, and  
 1937 | financial support for child care and development school  
 1938 | ~~readiness~~ program providers, staff, and parents on standards,  
 1939 | child screenings, child assessments, developmentally appropriate  
 1940 | curricula, character development, teacher-child interactions,  
 1941 | age-appropriate discipline practices, health and safety,  
 1942 | nutrition, first aid, cardiopulmonary resuscitation, the  
 1943 | recognition of communicable diseases, and child abuse detection  
 1944 | and prevention.

1945 |       4. Providing from among the funds provided for the  
 1946 | activities described in subparagraphs 1.-3., adequate funding  
 1947 | for infants and toddlers as necessary to meet federal  
 1948 | requirements related to expenditures for quality activities for  
 1949 | infant and toddler care.

1950 5. Improving the monitoring of compliance with, and  
 1951 enforcement of, applicable state and local requirements as  
 1952 described in and limited by 45 C.F.R. s. 98.40.

1953 6. Responding to Warm-Line requests by providers and  
 1954 parents ~~related to school readiness program children~~, including  
 1955 providing developmental and health screenings to child care and  
 1956 development ~~school readiness~~ program children.

1957 (c) Nondirect services as described in applicable Office  
 1958 of Management and Budget instructions are those services not  
 1959 defined as administrative, direct, or quality services that are  
 1960 required to administer the child care and development ~~school~~  
 1961 ~~readiness~~ program. Such services include, but are not limited  
 1962 to:

- 1963 1. Assisting families to complete the required application
- 1964 and eligibility documentation.
- 1965 2. Determining child and family eligibility.
- 1966 3. Recruiting eligible child care providers.
- 1967 4. Processing and tracking attendance records.
- 1968 5. Developing and maintaining a statewide child care
- 1969 information system.

1970  
 1971 As used in this paragraph, the term "nondirect services" does  
 1972 not include payments to child care and development ~~school~~  
 1973 ~~readiness~~ program providers for direct services provided to  
 1974 children who are eligible under s. 1002.87, administrative costs  
 1975 as described in paragraph (a), or quality activities as

1976 described in paragraph (b).

1977 (7) Funds appropriated for the child care and development  
 1978 ~~school readiness~~ program may not be expended for the purchase or  
 1979 improvement of land; for the purchase, construction, or  
 1980 permanent improvement of any building or facility; or for the  
 1981 purchase of buses. However, funds may be expended for minor  
 1982 remodeling necessary for the administration of the program and  
 1983 upgrading of child care facilities to ensure that providers meet  
 1984 state and local child care standards, including applicable  
 1985 health and safety requirements.

1986 Section 29. Subsection (7) of section 1002.91, Florida  
 1987 Statutes, is amended to read:

1988 1002.91 Investigations of fraud or overpayment;  
 1989 penalties.—

1990 (7) The early learning coalition may not contract with a  
 1991 child care and development ~~school readiness~~ program provider, ~~or~~  
 1992 a Voluntary Prekindergarten Education Program provider, or an  
 1993 individual who is on the United States Department of Agriculture  
 1994 National Disqualified List. In addition, the coalition may not  
 1995 contract with any provider that shares an officer or director  
 1996 with a provider that is on the United States Department of  
 1997 Agriculture National Disqualified List.

1998 Section 30. Paragraph (d) of subsection (3) of section  
 1999 1002.94, Florida Statutes, is amended to read:

2000 1002.94 Child Care Executive Partnership Program.—

2001 (3)

2002 (d) Each early learning coalition shall establish a  
 2003 community child care task force ~~for each child care purchasing~~  
 2004 ~~pool~~. The task force must be composed of employers, parents,  
 2005 private child care providers, and one representative from the  
 2006 local children's services council, if one exists in the area ~~of~~  
 2007 ~~the purchasing pool~~. The early learning coalition is expected to  
 2008 recruit the task force members from existing child care  
 2009 councils, commissions, or task forces already operating in the  
 2010 area ~~of a purchasing pool~~. A majority of the task force shall  
 2011 consist of employers.

2012 Section 31. The Office of Early Learning shall conduct a  
 2013 2-year pilot project to study the impact of assessing the early  
 2014 literacy skills of Voluntary Prekindergarten Education Program  
 2015 participants who are English Language Learners, in both English  
 2016 and Spanish. The assessments must include, at a minimum, the  
 2017 first administration of the Florida Assessments for Instruction  
 2018 in Reading in kindergarten and an appropriate alternative  
 2019 assessment in Spanish. The study must include a review of the  
 2020 kindergarten screening results for 2009-2010 and 2010-2011  
 2021 program participants and their subsequent Florida Comprehensive  
 2022 Assessment Test scores. The office shall annually report its  
 2023 findings to the Governor, the President of the Senate, and the  
 2024 Speaker of the House of Representatives by July 1, 2015, and  
 2025 July 1, 2016.

2026 Section 32. This act shall take effect July 1, 2014.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 7069 (2014)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Appropriations Committee  
 2 Representative O'Toole offered the following:

**Amendment**

Remove lines 1057-1075 and insert:

7 (d) Each prekindergarten instructor employed by the  
 8 private prekindergarten provider must be of good moral  
 9 character, must undergo background screening pursuant to s.  
 10 402.305(2)(a) be screened using the level 2 screening standards  
 11 in s. 435.04 before employment, must be and rescreened at least  
 12 once every 5 years, must be denied employment or terminated if  
 13 required under s. 435.06, and must not be ineligible to teach in  
 14 a public school because his or her educator certificate is  
 15 suspended or revoked.

16 (e) A private prekindergarten provider may assign a  
 17 substitute instructor to temporarily replace a credentialed

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 7069 (2014)

Amendment No. 1

18 | instructor if the credentialed instructor assigned to a  
19 | prekindergarten class is absent, as long as the substitute  
20 | instructor meets the requirements of paragraph (d) ~~is of good~~  
21 | ~~moral character and has been screened before employment in~~  
22 | ~~accordance with level 2 background screening requirements in~~  
23 | ~~chapter 435.~~ The Office of Early Learning shall adopt rules to  
24 | implement this paragraph which shall include required  
25 | qualifications of substitute instructors and the circumstances  
26 | and time limits for which a private prekindergarten provider may  
27 | assign a substitute instructor.

28  
29

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 7069 (2014)

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

---

1 Committee/Subcommittee hearing bill: Appropriations Committee  
2 Representative O'Toole offered the following:

3  
4 **Amendment**

5 Remove lines 1121-1123 and insert:  
6 authorize lower limits upon request, as appropriate. A provider  
7 must add the coalition as a named certificateholder ~~and as an~~  
8 ~~additional insured~~. A provider must provide the coalition with a  
9

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 7069 (2014)

Amendment No. 3

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

---

1 Committee/Subcommittee hearing bill: Appropriations Committee  
2 Representative O'Toole offered the following:

3  
4 **Amendment**

5 Remove lines 1495-1499 and insert:

6 1002.88(1)(a), ~~including center based care, family child care,~~  
7 ~~and informal child care~~ to the extent authorized in the state's  
8 Child Care and Development Fund Plan as approved by the United  
9 States Department of Health and Human Services pursuant to 45  
10 C.F.R. s. 98.18. Care and curriculum by a faith-based provider  
11



COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 7069 (2014)

Amendment No. 4

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED    \_\_\_ (Y/N)  
ADOPTED AS AMENDED                             \_\_\_ (Y/N)  
ADOPTED W/O OBJECTION                         \_\_\_ (Y/N)  
FAILED TO ADOPT                                 \_\_\_ (Y/N)  
WITHDRAWN                                         \_\_\_ (Y/N)  
OTHER    \_\_\_\_\_

---

1 Committee/Subcommittee hearing bill: Appropriations Committee  
2 Representative O'Toole offered the following:

3  
4           **Amendment**

5           Remove lines 1827-1848 and insert:  
6 request, as appropriate. A private provider must add the  
7 coalition as a named certificateholder ~~and as an additional~~  
8 ~~insured~~. A private provider must provide the coalition with a  
9 minimum of 10 calendar days' advance written notice of  
10 cancellation of or changes to coverage. The general liability  
11 insurance required by this paragraph must remain in full force  
12 and effect for the entire period of the provider contract with  
13 the coalition.

14           (m) For a provider that is an informal provider, comply  
15 with the provisions of paragraph (l) or maintain homeowner's  
16 liability insurance and, if applicable, a business rider. If an  
17 informal provider chooses to maintain a homeowner's policy, the

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 7069 (2014)

Amendment No. 4

18 provider must obtain and retain a homeowner's insurance policy  
19 that provides a minimum of \$100,000 of coverage per occurrence  
20 and a minimum of \$300,000 general aggregate coverage. The office  
21 may authorize lower limits upon request, as appropriate. An  
22 informal provider must add the coalition as a named  
23 certificateholder ~~and as an additional insured~~. An informal  
24 provider must provide the coalition with a minimum of 10  
25 calendar days' advance written notice of cancellation of or  
26 changes to coverage. The general liability insurance required by  
27 this paragraph must remain in full force and effect for the  
28 entire period of the provider's contract with the coalition.

29

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 7069 (2014)

Amendment No. 5

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Appropriations Committee  
2 Representative O'Toole offered the following:

3  
4 **Amendment**



5 Between lines 2025 and 2026, insert:

6 For the 2014-2015 fiscal year, the sum of \$1,034,965 in  
7 recurring funds and \$11,319 in nonrecurring funds from the  
8 General Revenue Fund, and \$70,800 in recurring funds from the  
9 Operations and Maintenance Trust Fund are appropriated to the  
10 Department of Children and Families and 18.00 full-time  
11 equivalent positions and associated salary rate of 608,446 are  
12 authorized, for the purpose of implementing the regulatory  
13 provisions of this act.  
14



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 7095    PCB EAC 14-02    Professional Sports Facilities Incentive Application Process  
**SPONSOR(S):** Economic Affairs Committee, Patronis  
**TIED BILLS:**                    **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Economic Affairs Committee	17 Y, 2 N	Collins	Creamer
1) Appropriations Committee		Proctor 	Leznoff 

### SUMMARY ANALYSIS

The bill creates s. 288.11625, F.S., the Professional Sports Facility Incentive Program (program) process to provide state funding for the public purpose of constructing, reconstructing, renovating, or improving a professional sports facility. The program will be administered by the Department of Economic Opportunity (DEO). Annual distributions of state funds will be made by the Department of Revenue (DOR).

The bill allows municipalities and counties to expend portions of the local government half-cent sales tax for reimbursing the state as required by the program.

The bill adds the program to the list of economic development programs subject to review by the Office of Economic and Demographic Research (EDR) and the Office of Program Policy Analysis and Government Accountability (OPPAGA) by January 1, 2015.

The bill creates a new application, review, and approval process for funding sports facilities, but does not require any expenditure of funds. It also caps the total potential annual distributions at \$12 million in General Revenue funds. Such distributions will be contingent upon future approval by the Legislature and enactment by general law approved by the Governor.<sup>1</sup>

The bill has an effective date of July 1, 2014.

<sup>1</sup> S. 8, Art. III of the State Constitution.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

###### Professional Sports in Florida

There are nine major professional sports teams based in Florida covering each of the major professional sports leagues; the National Football League (NFL), Major League Baseball (MLB), National Basketball Association (NBA), and National Hockey League (NHL). The oldest major professional sports franchise in the state is the Miami Dolphins (NFL). The Dolphins franchise began play in 1966. The newest major professional sports team in the state is the Tampa Bay Rays (MLB) baseball franchise. The Rays franchise began play in 1998. The Miami Marlins (MLB), Tampa Bay Buccaneers (NFL), Jacksonville Jaguars (NFL), Orlando Magic (NBA), Miami Heat (NBA), Tampa Bay Lightning (NHL), and Florida Panthers (NHL) all play their home games in the state. MLB's Spring Training Grapefruit League is also based in Florida, with 15 teams claiming the state as their second home for preseason training and exhibition games.<sup>2</sup>

Beginning in 2015, the state will be home to a tenth major professional sports team when the Orlando City Soccer Club begins play as the 21<sup>st</sup> Major League Soccer (MLS) franchise.<sup>3</sup> Plans for a future franchise in Miami have also been announced by the league.<sup>4</sup> MLS is the premier professional soccer organization in the United States, having been launched in 1996 and boasting eight franchises valued at over \$100 million.<sup>5</sup>

Franchise	League	Inaugural Season	Home Facility	County	Facility Opened
Miami Dolphins	NFL	1966	Sun Life Stadium	Miami-Dade	1987
Tampa Bay Buccaneers	NFL	1976	Raymond James Stadium	Hillsborough	1998
Miami Heat	NBA	1988	American Airlines Arena	Miami-Dade	1999
Orlando Magic	NBA	1989	Amway Center	Orange	2010
Tampa Bay Lightning	NHL	1992	Tampa Bay Times Forum	Hillsborough	1996
Florida Panthers	NHL	1993	BB&T Center	Broward	1998
Miami Marlins	MLB	1993	Marlins Park	Miami-Dade	2012
Jacksonville Jaguars	NFL	1995	EverBank Field	Duval	1995
Tampa Bay Rays	MLB	1998	Tropicana Field	Pinellas	1990

<sup>2</sup> Florida Sports Foundation, *Sports in Florida*

[http://www.flasports.com/index.php?option=com\\_content&view=article&id=97&Itemid=211](http://www.flasports.com/index.php?option=com_content&view=article&id=97&Itemid=211) (last accessed January 14, 2014).

<sup>3</sup> Major League Soccer, *Major League Soccer Names Orlando City SC as 21<sup>st</sup> Franchise, Set for 2015 Debut*, November 19, 2013; <http://www.mlssoccer.com/news/article/2013/11/19/major-league-soccer-names-orlando-city-21st-franchise-set-2015-debut> (last accessed February 20, 2014).

<sup>4</sup> Major League Soccer, *David Beckham Exercises MLS Expansion Option on Future Miami Franchise*, February 5, 2014; <http://www.mlssoccer.com/news/article/2014/02/05/david-beckham-exercises-mls-expansion-option-future-miami-franchise> (last accessed February 20, 2014).

<sup>5</sup> Forbes, *Major League Soccer's Most Valuable Teams* November 20, 2013;

<http://www.forbes.com/sites/chris-smith/2013/11/20/major-league-soccer-s-most-valuable-teams/> (last accessed January 14, 2014).

## State Incentives for Professional Sports Teams

Section 288.1162, F.S., provides the procedure by which professional sports franchises in Florida may be certified to receive state funding for the purpose of paying for the acquisition, construction, reconstruction, or renovation of a facility for a new or retained professional sports franchise. Local governments, non-profit, and for-profit entities may apply to the program.

DEO is responsible for screening and certifying applicants for state funding.<sup>6</sup> An applicant qualifying as a new professional sports franchise must be a professional sports franchise that was not based in Florida prior to April 1, 1987. Applicants qualifying as retained professional sports franchises must have had a league-authorized location in the state on or before December 31, 1976, and be continuously located at the location.<sup>7</sup> The number of certified professional sports franchises, both new and retained, is limited to eight total franchises.<sup>8</sup>

For both new and retained franchises, DEO must confirm and verify the following:

- A local government is responsible for the construction, management, or operation of the professional sports franchise facility, or holds title to the property where the facility is located.<sup>9</sup>
- The applicant has a verified copy of a signed agreement with a new professional sports franchise for at least 10 years, or for 20 years in the case of a retained franchise.<sup>10</sup>
- The applicant has a verified copy of the approval by the governing body of the NFL, MLB, NHL, or NBA authorizing the location of a new franchise in the state after April 1, 1987, for new professional sports franchises, or verified evidence of a league-authorized location in the state on or before December 31, 1976, for a retained professional sports franchise.<sup>11</sup>
- The applicant has projections demonstrating a paid annual attendance of over 300,000 annually.<sup>12</sup>
- The applicant has an independent analysis demonstrating that the amount of sales taxes generated by the use or operation of the franchise's facility will equal or exceed \$2 million annually.<sup>13</sup>
- The city where the franchise's facility is located, or the county if the facility is in an unincorporated area, has certified by resolution after a public hearing that the application serves a public purpose.<sup>14</sup>
- The applicant has demonstrated that it has provided, or is capable of providing, financial or other commitments of more than one-half of the costs incurred or related to the improvement or development of the franchise's facility.<sup>15</sup>

Any applicant that meets the above mentioned criteria, as verified by DEO, is eligible to receive monthly payments from the state in the amount of \$166,667 for not more than 30 years totaling \$2,000,004 annually.<sup>16</sup>

State funding may only be used for the public purposes of paying for the acquisition, construction, reconstruction, or renovation of a facility for a new or retained professional sports franchise; reimbursing associated costs for such activities; paying or pledging payments of debt service on bonds

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<sup>6</sup> Section 288.1162(1), F.S.

<sup>7</sup> Section 288.1162(4)(c), F.S.

<sup>8</sup> Section 288.1162(6), F.S.

<sup>9</sup> Section 288.1162(4)(a), F.S.

<sup>10</sup> Section 288.1162(4)(b), F.S.

<sup>11</sup> Section 288.1162(4)(c), F.S.

<sup>12</sup> Section 288.1162(4)(d), F.S.

<sup>13</sup> Section 288.1162(4)(e), F.S.

<sup>14</sup> Section 288.1162(4)(f), F.S.

<sup>15</sup> Section 288.1162(4)(g), F.S.

<sup>16</sup> Section 212.20(6)(d)6.b., F.S.

issued for such activities; funding debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to bonds issued for such activities; or refinancing the bonds.<sup>17</sup> The state may only pursue recovery of funds if the Auditor General finds that the distributions were not expended as required by statute.<sup>18</sup>

No facility may be certified more than once, and no sports franchise can be the basis for more than one certification unless the previous certification was withdrawn by the facility or invalidated by DEO before any funds were disbursed under s. 212.20(6)(d), F.S.<sup>19</sup>

As of February 17, 2014, there were eight certified professional sports franchise facilities in Florida. The facilities and the payment distribution for each, as provided by the Department of Revenue, are listed below:

<b>Sun Life Stadium</b>	Dolphin Stadium/South Florida Stadium Corp.	Florida Marlins	06/94	\$41,333,416
<b>Everbank Field</b>	City of Jacksonville	Jacksonville Jaguars	06/94	\$39,500,079
<b>Tropicana Field</b>	City of St. Petersburg	Tampa Bay Rays	06/95	\$37,333,408
<b>Tampa Bay Times Forum</b>	Tampa Sports Authority	Tampa Bay Lightning	09/95	\$37,000,074
<b>BB&amp;T Center</b>	Broward County	Florida Panthers	08/96	\$35,166,737
<b>Raymond James Stadium</b>	Hillsborough County	Tampa Bay Buccaneers	01/97	\$34,333,402
<b>American Airlines Arena</b>	BPL, LTD	Miami Heat	03/98	\$31,833,397
<b>Amway Center</b>	City of Orlando	Orlando Magic	02/08	\$12,166,691

### **Effect of Proposed Changes**

The bill creates s. 288.11625, F.S., the Professional Sports Facility Incentive Program. The purpose of the program is to provide state funding under s. 212.60(6)(d)6.f., F.S., for the public purpose of constructing, reconstructing, renovating, or improving a professional sports facility.

### **Application Process**

Applicants must be a unit of local government or an entity that is responsible for construction, management, or operation of a pro sports facility. A professional sports franchise (beneficiary) is eligible to apply under certain circumstances. DEO is directed to establish procedures and application forms to be used by program applicants and accept applications between June 1 and November 1 of each year. The bill gives DEO 60 days to complete its evaluation and notify the applicant in writing of its decision to recommend that the Legislature fund the project or deny the application. Applicants not approved by the Legislature, but recommended for funding by DEO may update a previously submitted application and re-apply.

The applicant must provide an independent analysis (Expected Sales Tax Analysis) by a state-certified public accountant (CPA) that provides an estimate of the new incremental state sales taxes generated

<sup>17</sup> Section 288.1162(5), F.S.

<sup>18</sup> Section 288.1162(7), F.S.

<sup>19</sup> Section 288.1162(8), F.S.

<sup>20</sup> Total paid as of February 17, 2014.



by sales at the facility above the average annual amount of state sales taxes generated by sales at the facility during the preceding 36-month period (estimate).

### Evaluation Process

Before recommending an applicant for funding to the Legislature, DEO must first verify that all of the following requirements are met:

- The applicant is responsible for the project.
- If the applicant is a beneficiary, then a local government holds title to the property on which the facility is located.
- If the applicant is a local government, then the local government has an exclusive intent agreement to negotiate in this state with the beneficiary.
- The local government in whose jurisdiction the facility is located has passed a resolution after public hearing in support of the project.
- Neither the applicant nor the beneficiary have previously defaulted or failed to meet the requirements of a sports-related program within ch. 288, F.S.
- The applicant is not a Major League Baseball spring training facility, a Professional Golf Hall of Fame facility, or an International Game Fish Association World Center facility.
- The applicant has demonstrated a commitment to employing Florida residents and firms, and purchasing locally available building materials whenever possible.
- If the applicant is a local government, then they have a signed agreement with a beneficiary for use of the facility.
- If the applicant is a beneficiary, then they must enter into an agreement with DEO that requires them to repay any state funds disbursed, plus a five percent penalty should they cease to be the facility's primary tenant before their agreement expires, and to pay for VISIT Florida-approved advertising at the facility.
- The total project cost must be at least \$100 million, with more than half the funding coming from private sources.
- The applicant has provided the Expected Sales Tax Analysis. DEO must consult with DOR or EDR to verify the analysis and may consult with DOR or EDR to develop a standard calculation for estimating new incremental state sales taxes generated by sales at the facility and adjustments to annual distributions.

By February 1 of each year, DEO will provide evaluations of all recommended applications, in ranked order, to the Governor, the President of the Senate, and the Speaker of the House of Representatives for final approval. Rankings will be determined by the project's ability to produce a significant positive economic impact within the state based on the following criteria:

- The ability of the project to provide a positive return on the state's investment.
- The proposed use of state funds.
- The length of time that a beneficiary has agreed to use the facility.
- The percentage of total project funds provided by the applicant, the percentage of total project funds provided by the beneficiary, and the total amount of private or in-kind contributions to the project.
- The number and type of "signature events"<sup>21</sup> the facility is likely to attract during the duration of the agreement with the beneficiary.

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<sup>21</sup> Signature events are defined as sporting events that create a significant positive economic impact within the state, and enhances that status of the state as a premier sports tourism destination. Signature events include, but are not limited to, NFL Super Bowls, College Football Playoff games, college football bowl games, professional sports all-star games, international sporting events and tournaments, and professional motorsports events.

- The anticipated increase in average annual ticket sales and attendance at the facility due to the project.
- The potential to attract out-of-state visitors to the facility.
- The multiuse capabilities of the facility.
- The facility's projected employment of state residents, contracts with firms based within the state, and purchases of locally available building materials.
- The amount of positive advertising or media coverage the facility generates.
- The estimate provided in the Expected Sales Tax Analysis.
- The size and scope of the project and number of temporary and permanent jobs that will be created as a direct result of the project.

DEO may not recommend more than one annual distribution for any applicant, facility, or beneficiary at a time.

### Legislative Approval

In order to receive a distribution through this program, an applicant must be approved by the Legislature and enacted by general law approved by the Governor.<sup>22</sup>

An applicant whose application is recommended by DEO but not approved by the Legislature may reapply and update any information in the original application as required.

### Certification and Contract

An applicant approved by the Legislature and certified by DEO must enter into a contract with the department that:

- Specifies the terms of the state's investment.
- States the criteria that the certified applicant must meet in order to remain certified.
- States that the certified applicant is subject to decertification as recommended by DEO and approved by the Legislature.
- Requires the certified applicant to submit both analyses outlined in the bill.
- Specifies information that the certified applicant must report to DEO.
- Requires that the certified applicant reimburse the state each year that the Expected Sales Tax Analysis demonstrates the amount of new incremental state sales taxes generated by sales at the facility is less than the annual distribution amount.
- Includes any other provisions deemed prudent by DEO.

### Annual Distribution of State Funds

DEO shall determine the annual distribution a certified applicant may receive based on the estimate of new incremental states sales taxes provided in the Expected Sales Tax Analysis. A certified applicant may receive up to 75 percent of the estimate or \$2 million, whichever is less.

Before the sixth annual distribution is made by DOR, the certified applicant must submit to DEO an analysis (Initial Comparison Analysis) prepared by an independent CPA comparing the actual amount of new incremental state sales taxes generated by sales at the facility since certification to the sum of the first five annual distributions. DEO may consult with DOR to verify the Initial Comparison Analysis.

Annually, beginning with the sixth annual distribution, the certified applicant must submit to DEO an analysis (Annual Comparison Analysis) prepared by an independent CPA comparing the actual amount

<sup>22</sup> S. 8, Art. III of the State Constitution.

of new incremental state sales taxes generated by sales at the facility over the previous 12-month period to the most recent annual distribution. DEO may consult with DOR to verify each Annual Comparison Analysis.

In any 12-month period when total annual distributions for all certified applicants equal \$12 million or more, DEO may not certify new annual distributions for any additional certified applicants.

DOR will begin annual distributions within 60 days of notification from DEO that an applicant is certified.

### Approved Use of Funds

A certified applicant may only use state funds for the following purposes:

- Constructing, reconstructing, renovating, or improving a facility.
- Reimbursing costs associated with constructing, reconstructing, renovating, or improving a facility.
- Paying or pledging for the payment of debt service on, or to fund debt service reserve funds, arbitrage rebate obligations, or other amounts payable associated with bonds issued for the construction or renovation of a facility.

### Reports

By November 1 of each year, a certified applicant must submit to DEO any required information for inclusion in the report the department will provide to the Legislature by February 1. Every three years, DEO must verify that a certified applicant is meeting the program requirements. If they are not, DEO must notify the Governor and Legislature of the requirements not being met and recommend future action as part of the report due February 1. DEO will consider exceptions that may have prevented the certified applicant from meeting the requirements of the program if they include force majeure events or a significant economic downturn.

### Audits

Every five years, beginning in 2020, the Auditor General will conduct audits to verify the Annual Comparison Analyses, and to verify that the annual distributions are being expended as required. The findings will be reported to DEO. If the Auditor General finds that the annual distributions are not expended as required, then DOR must be notified.

### Repayment of Distributions

A certified applicant may be subject to repayment of state funds if:

- The beneficiary has broken the terms of its agreement with a local government. A beneficiary must reimburse the state for funds that have been distributed, plus a five percent penalty, if the beneficiary no longer occupies or uses a facility as the facility's primary tenant before the agreement expires.
- DEO has determined that an applicant has submitted any false or misleading information. The applicant must reimburse the state for funds that have been distributed, plus a five percent penalty.
- The amount of new incremental state sales taxes generated by sales at the facility that is less than the sum of the first five annual distributions as demonstrated in the Initial Comparison Analysis. The certified applicant must reimburse the state for the difference between state funds that have been disbursed and actual new state sales taxes generated by sales at the facility, plus a five percent penalty, if such determination is made.
- The actual new incremental sales taxes generated by sales at the facility during the most recent 12-month period was less than the annual distribution as demonstrated in the Annual Comparison Analysis. This applies to the sixth annual distribution and all subsequent annual distributions.

### Halting of Payments

The applicant may request to halt future annual distributions by providing DEO with written notice at least 20 days prior to the next annual distribution payment. DEO must notify DOR to halt future payments.

DEO will direct DOR to halt future disbursements to any certified applicant that has not made reimbursements as required by the program in a timely manner.

### Other Changes

The bill amends s. 212.20, F.S., to allow applicants certified under the program to receive monthly payments from DOR equal to 1/12<sup>th</sup> the amount certified by DEO. It also places a \$12 million cap on the total amount that may be distributed annually by DOR to certified applicants.

The bill amends s. 218.64, F.S., to allow municipalities and counties the option to expend portions of the local government half-cent sales tax for the purpose of reimbursing the state as a condition of the contract terms required for this program.

The bill amends s. 288.0001, F.S., to add this program to the list of economic development programs scheduled to be reviewed by EDR and the OPPAGA by January 1, 2015.

#### **B. SECTION DIRECTORY:**

- Section 1: Amends s. 212.20, F.S., to allow applicants certified under the Professional Sports Facility Program to receive monthly payments equal to 1/12<sup>th</sup> the annual distribution amount authorized by the program.
- Section 2: Amends s. 218.64, F.S., to allow municipalities and counties the option to expend portions of the local government half-cent sales tax for the purpose of reimbursing the state for funds expended.
- Section 3: Amends s. 288.0001, F.S., to add the Professional Sports Facility Incentive Program to the list of economic development programs scheduled for review by January 1, 2015.
- Section 4: Creates s. 288.11625, F.S., the Professional Sports Facility Incentive Program to provide state funding under s. 212.60(6)(d)6.f., F.S., for the public purpose of constructing, reconstructing, renovating, or improving a professional sports facility.
- Section 5: Provides an effective date of July 1, 2014.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

See Fiscal Comments.

2. Expenditures:

DEO and DOR did not advise of any additional resources that would be required to implement the bill. DEO advised the bill formalizes and expands a process that is currently in place.

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The provisions of the bill may encourage the owners or operators of pro sports stadiums to undertake major renovations, which could have positive impacts on the construction sector. Additionally, such renovations could have a positive impact on ticket sales and other sales associated with sporting and other events.

D. FISCAL COMMENTS:

The bill prohibits DOR from distributing more than \$12 million to certified applicants in a single year, and prohibits any single certified applicant from receiving an annual disbursement over \$2 million. Certified applicants are subject to reimburse state funds if they do not meet all program requirements. Certified applicants may receive annual payments for as long as 30 years.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

DEO may adopt rules to implement this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled

2 An act relating to the professional sports facilities  
3 incentive application process; amending s. 212.20,  
4 F.S.; providing for the distribution of a specified  
5 amount of tax proceeds to certain applicants of the  
6 professional sports facility incentive program;  
7 prohibiting the Department of Revenue from  
8 distributing more than a specified amount to program  
9 applicants; amending s. 218.64, F.S.; authorizing  
10 municipalities and counties to use local government  
11 half-cent sales tax distributions to reimburse the  
12 state for funding received under the professional  
13 sports facility incentive program; amending s.  
14 288.0001, F.S.; requiring the Office of Economic and  
15 Demographic Research and the Office of Program Policy  
16 Analysis and Government Accountability to provide a  
17 detailed analysis of the professional sports facility  
18 incentive program; creating s. 288.11625, F.S.;  
19 creating the professional sports facility incentive  
20 program; providing definitions; providing application  
21 requirements and procedures; providing procedures and  
22 criteria for the evaluation of applications and the  
23 recommendation of applications for legislative  
24 approval; providing that an applicant must receive  
25 legislative approval of its application in order to  
26 receive state funding; requiring an applicant whose

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

27 application is approved by the Legislature to enter  
 28 into a contract with the Department of Economic  
 29 Opportunity containing specified terms in order to  
 30 become certified; providing for the duration of  
 31 certain certifications; providing for the distribution  
 32 of state funds to certified applicants; requiring  
 33 certain certified applicants to submit an annual  
 34 analysis including specified information; providing  
 35 for the determination of annual distribution amounts;  
 36 restricting the amount of state funds that may be  
 37 provided to certified applicants in a specified  
 38 period; restricting the use of state funds received by  
 39 a certified applicant to specified purposes; providing  
 40 for the repayment of distributions under certain  
 41 circumstances; requiring the department to submit an  
 42 annual report containing specified information to the  
 43 Governor and Legislature; requiring the Auditor  
 44 General to conduct an audit of the program;  
 45 authorizing the Department of Revenue to recover  
 46 improperly expended distributions at the request of  
 47 the Auditor General; providing for the halting of  
 48 payments; authorizing the Department of Economic  
 49 Opportunity to adopt rules; providing an effective  
 50 date.

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Be It Enacted by the Legislature of the State of Florida:

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Section 1. Paragraph (d) of subsection (6) of section 212.20, Florida Statutes, is amended to read:

212.20 Funds collected, disposition; additional powers of department; operational expense; refund of taxes adjudicated unconstitutionally collected.—

(6) Distribution of all proceeds under this chapter and s. 202.18(1)(b) and (2)(b) shall be as follows:

(d) The proceeds of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be distributed as follows:

1. In any fiscal year, the greater of \$500 million, minus an amount equal to 4.6 percent of the proceeds of the taxes collected pursuant to chapter 201, or 5.2 percent of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in monthly installments into the General Revenue Fund.

2. After the distribution under subparagraph 1., 8.814 percent of the amount remitted by a sales tax dealer located within a participating county pursuant to s. 218.61 shall be transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund. Beginning July 1, 2003, the amount to be transferred shall be reduced by 0.1 percent, and the department shall distribute this amount to the Public Employees Relations Commission Trust Fund less \$5,000 each month, which shall be added to the amount calculated in subparagraph 3. and



79 distributed accordingly.

80 3. After the distribution under subparagraphs 1. and 2.,  
 81 0.095 percent shall be transferred to the Local Government Half-  
 82 cent Sales Tax Clearing Trust Fund and distributed pursuant to  
 83 s. 218.65.

84 4. After the distributions under subparagraphs 1., 2., and  
 85 3., 2.0440 percent of the available proceeds shall be  
 86 transferred monthly to the Revenue Sharing Trust Fund for  
 87 Counties pursuant to s. 218.215.

88 5. After the distributions under subparagraphs 1., 2., and  
 89 3., 1.3409 percent of the available proceeds shall be  
 90 transferred monthly to the Revenue Sharing Trust Fund for  
 91 Municipalities pursuant to s. 218.215. If the total revenue to  
 92 be distributed pursuant to this subparagraph is at least as  
 93 great as the amount due from the Revenue Sharing Trust Fund for  
 94 Municipalities and the former Municipal Financial Assistance  
 95 Trust Fund in state fiscal year 1999-2000, no municipality shall  
 96 receive less than the amount due from the Revenue Sharing Trust  
 97 Fund for Municipalities and the former Municipal Financial  
 98 Assistance Trust Fund in state fiscal year 1999-2000. If the  
 99 total proceeds to be distributed are less than the amount  
 100 received in combination from the Revenue Sharing Trust Fund for  
 101 Municipalities and the former Municipal Financial Assistance  
 102 Trust Fund in state fiscal year 1999-2000, each municipality  
 103 shall receive an amount proportionate to the amount it was due  
 104 in state fiscal year 1999-2000.

105           6. Of the remaining proceeds:

106           a. In each fiscal year, the sum of \$29,915,500 shall be

107 divided into as many equal parts as there are counties in the

108 state, and one part shall be distributed to each county. The

109 distribution among the several counties must begin each fiscal

110 year on or before January 5th and continue monthly for a total

111 of 4 months. If a local or special law required that any moneys

112 accruing to a county in fiscal year 1999-2000 under the then-

113 existing provisions of s. 550.135 be paid directly to the

114 district school board, special district, or a municipal

115 government, such payment must continue until the local or

116 special law is amended or repealed. The state covenants with

117 holders of bonds or other instruments of indebtedness issued by

118 local governments, special districts, or district school boards

119 before July 1, 2000, that it is not the intent of this

120 subparagraph to adversely affect the rights of those holders or

121 relieve local governments, special districts, or district school

122 boards of the duty to meet their obligations as a result of

123 previous pledges or assignments or trusts entered into which

124 obligated funds received from the distribution to county

125 governments under then-existing s. 550.135. This distribution

126 specifically is in lieu of funds distributed under s. 550.135

127 before July 1, 2000.

128           b. The department shall distribute \$166,667 monthly

129 pursuant to s. 288.1162 to each applicant certified as a

130 facility for a new or retained professional sports franchise

131 pursuant to s. 288.1162. Up to \$41,667 shall be distributed  
 132 monthly by the department to each certified applicant as defined  
 133 in s. 288.11621 for a facility for a spring training franchise.  
 134 However, not more than \$416,670 may be distributed monthly in  
 135 the aggregate to all certified applicants for facilities for  
 136 spring training franchises. Distributions begin 60 days after  
 137 such certification and continue for not more than 30 years,  
 138 except as otherwise provided in s. 288.11621. A certified  
 139 applicant identified in this sub-subparagraph may not receive  
 140 more in distributions than expended by the applicant for the  
 141 public purposes provided for in s. 288.1162(5) or s.  
 142 288.11621(3).

143 c. Beginning 30 days after notice by the Department of  
 144 Economic Opportunity to the Department of Revenue that an  
 145 applicant has been certified as the professional golf hall of  
 146 fame pursuant to s. 288.1168 and is open to the public, \$166,667  
 147 shall be distributed monthly, for up to 300 months, to the  
 148 applicant.

149 d. Beginning 30 days after notice by the Department of  
 150 Economic Opportunity to the Department of Revenue that the  
 151 applicant has been certified as the International Game Fish  
 152 Association World Center facility pursuant to s. 288.1169, and  
 153 the facility is open to the public, \$83,333 shall be distributed  
 154 monthly, for up to 168 months, to the applicant. This  
 155 distribution is subject to reduction pursuant to s. 288.1169. A  
 156 lump sum payment of \$999,996 shall be made, after certification

157 and before July 1, 2000.

158 e. The department shall distribute up to \$55,555 monthly  
 159 to each certified applicant as defined in s. 288.11631 for a  
 160 facility used by a single spring training franchise, or up to  
 161 \$111,110 monthly to each certified applicant as defined in s.  
 162 288.11631 for a facility used by more than one spring training  
 163 franchise. Monthly distributions begin 60 days after such  
 164 certification or July 1, 2016, whichever is later, and continue  
 165 for not more than 30 years, except as otherwise provided in s.  
 166 288.11631. A certified applicant identified in this sub-  
 167 subparagraph may not receive more in distributions than expended  
 168 by the applicant for the public purposes provided in s.  
 169 288.11631(3).

170 f. Beginning 60 days after notice by the Department of  
 171 Economic Opportunity to the Department of Revenue that an  
 172 applicant has been approved by the Legislature, enacted by  
 173 general law approved by the Governor, and certified by the  
 174 Department of Economic Opportunity under s. 288.11625, the  
 175 department shall distribute each month an amount equal to one-  
 176 twelfth the annual distribution amount certified by the  
 177 Department of Economic Opportunity for the applicant. The  
 178 department may not distribute more than \$12 million annually to  
 179 all applicants approved by the Legislature and certified by the  
 180 Department of Economic Opportunity pursuant to s. 288.11625.

181 7. All other proceeds must remain in the General Revenue  
 182 Fund.

183 Section 2. Subsections (2) and (3) of section 218.64,  
 184 Florida Statutes, are amended to read:

185 218.64 Local government half-cent sales tax; uses;  
 186 limitations.—

187 (2) Municipalities shall expend their portions of the  
 188 local government half-cent sales tax only for municipality-wide  
 189 programs, for reimbursing the state as required by a contract  
 190 pursuant to s. 288.11625(6), or for municipality-wide property  
 191 tax or municipal utility tax relief. All utility tax rate  
 192 reductions afforded by participation in the local government  
 193 half-cent sales tax shall be applied uniformly across all types  
 194 of taxed utility services.

195 (3) Subject to ordinances enacted by the majority of the  
 196 members of the county governing authority and by the majority of  
 197 the members of the governing authorities of municipalities  
 198 representing at least 50 percent of the municipal population of  
 199 such county, counties may use up to \$2 million annually of the  
 200 local government half-cent sales tax allocated to that county  
 201 for funding for any of the following purposes ~~applicants~~:

202 (a) Funding a certified applicant as a facility for a new  
 203 or retained professional sports franchise under s. 288.1162 or a  
 204 certified applicant as defined in s. 288.11621 for a facility  
 205 for a spring training franchise. It is the Legislature's intent  
 206 that the provisions of s. 288.1162, including, but not limited  
 207 to, the evaluation process by the Department of Economic  
 208 Opportunity except for the limitation on the number of certified

209 applicants or facilities as provided in that section and the  
 210 restrictions set forth in s. 288.1162(8), shall apply to an  
 211 applicant's facility to be funded by local government as  
 212 provided in this subsection.

213 (b) Funding a certified applicant as a "motorsport  
 214 entertainment complex," as provided for in s. 288.1171. Funding  
 215 for each franchise or motorsport complex shall begin 60 days  
 216 after certification and shall continue for not more than 30  
 217 years.

218 (c) Reimbursing the state as required by a contract  
 219 pursuant to s. 288.11625(6).

220 Section 3. Paragraph (b) of subsection (2) of section  
 221 288.0001, Florida Statutes, is amended to read:

222 288.0001 Economic Development Programs Evaluation.—The  
 223 Office of Economic and Demographic Research and the Office of  
 224 Program Policy Analysis and Government Accountability (OPPAGA)  
 225 shall develop and present to the Governor, the President of the  
 226 Senate, the Speaker of the House of Representatives, and the  
 227 chairs of the legislative appropriations committees the Economic  
 228 Development Programs Evaluation.

229 (2) The Office of Economic and Demographic Research and  
 230 OPPAGA shall provide a detailed analysis of economic development  
 231 programs as provided in the following schedule:

232 (b) By January 1, 2015, and every 3 years thereafter, an  
 233 analysis of the following:

234 1. The entertainment industry financial incentive program

235 established under s. 288.1254.

236 2. The entertainment industry sales tax exemption program  
237 established under s. 288.1258.

238 3. ~~The VISIT~~ Florida Tourism Industry Marketing  
239 Corporation and its programs established or funded under ss.  
240 288.122, 288.1226, 288.12265, and 288.124.

241 4. The Florida Sports Foundation and related programs  
242 established under ss. 288.1162, 288.11621, 288.11625, 288.1166,  
243 288.1167, 288.1168, 288.1169, and 288.1171.

244 Section 4. Section 288.11625, Florida Statutes, is created  
245 to read:

246 288.11625 Professional sports facility incentive program.-

247 (1) PURPOSE.-There is created within the department the  
248 professional sports facility incentive program. The purpose of  
249 the program is to provide for distributions of state funding to  
250 applicants under s. 212.20(6)(d)6.f. for the public purpose of  
251 constructing, reconstructing, renovating, or improving a  
252 facility.

253 (2) DEFINITIONS.-As used in this section, the term:

254 (a) "Beneficiary" means a professional sports franchise of  
255 the National Football League, the National Hockey League, the  
256 National Basketball Association, the National League or the  
257 American League of Major League Baseball, Major League Soccer,  
258 or the National Association for Stock Car Auto Racing, or a  
259 nationally recognized professional sports association that  
260 occupies or uses a facility as the facility's primary tenant. A

261 beneficiary may also be an applicant under this section.

262 (b) "Facility" means a facility used primarily to host  
 263 games or events held by a beneficiary. The term does not include  
 264 any portion of a facility used for transient lodging. The term  
 265 also does not include a Major League Baseball spring training  
 266 facility, a facility certified under s. 288.1168, or a facility  
 267 certified under s. 288.1169.

268 (c) "Project" means the proposed construction,  
 269 reconstruction, renovation, or improvement of a facility or the  
 270 proposed acquisition of land to construct a new facility.

271 (d) "State sales taxes generated by sales at the facility"  
 272 means state sales taxes imposed under chapter 212 and generated  
 273 by admissions to the facility or by sales made by vendors at the  
 274 facility who are accessible to persons attending events  
 275 occurring at the facility.

276 (3) APPLICATION PROCESS.-

277 (a) To apply for a distribution of state funds under s.  
 278 212.20(6)(d)6.f., an applicant must:

279 1. Be a unit of local government, as defined in s.  
 280 218.369, that is responsible for construction, management, or  
 281 operation of a facility; or

282 2. If not a unit of local government, be another entity  
 283 responsible for construction, management, or operation of a  
 284 facility, in which case, a unit of local government must hold  
 285 title to the property on which the facility is or will be  
 286 located.



287 (b) The annual application period is June 1 through  
 288 November 1.

289 (c) The department shall establish procedures and  
 290 application forms deemed necessary pursuant to the requirements  
 291 of this section. The department may notify an applicant of any  
 292 incomplete or additional required information necessary for the  
 293 department to evaluate the application.

294 (d) Each application shall include an independent analysis  
 295 prepared by a certified public accountant licensed in this state  
 296 that demonstrates:

297 1. The average annual amount of state sales taxes  
 298 generated by sales at the facility during the 36-month period  
 299 immediately before the beginning of the application period,  
 300 which shall be known as the "baseline amount."

301 2. The expected amount of new incremental state sales  
 302 taxes generated by sales at the facility in excess of the  
 303 baseline amount to be generated annually as a result of the  
 304 project.

305 (e) Within 60 days after receipt of a completed  
 306 application, the department shall evaluate the application as  
 307 provided in subsection (4) and notify the applicant in writing  
 308 of the department's decision to recommend legislative approval  
 309 of the application or to deny the application.

310 (4) EVALUATION PROCESS.—

311 (a) Before recommending an applicant for a distribution of  
 312 state funds under s. 212.20(6)(d)6.f., the department shall

313 verify:

314 1. That the applicant or beneficiary is responsible for  
 315 construction, reconstruction, renovation, or improvement of the  
 316 facility.

317 2. If the applicant is also the beneficiary, that a unit  
 318 of local government holds title to the property on which the  
 319 facility and project are or will be located.

320 3. If the applicant is a unit of local government within  
 321 whose jurisdiction the facility is or will be located, that the  
 322 unit of local government has an exclusive intent agreement to  
 323 negotiate in this state with the beneficiary.

324 4. That the unit of local government, within whose  
 325 jurisdiction the facility is or will be located, supports the  
 326 application for state funds. Such support must be verified by  
 327 adoption, after a public hearing, of a resolution that the  
 328 project serves a public purpose.

329 5. That the applicant or beneficiary has not previously  
 330 defaulted or failed to meet any statutory requirement of a  
 331 previous state-administered sports-related program under this  
 332 chapter.

333 6. That the applicant or beneficiary has sufficiently  
 334 demonstrated a commitment to employ residents of this state,  
 335 contract with Florida-based firms, and purchase locally  
 336 available building materials to the greatest extent practicable.

337 7. If the applicant is a unit of local government, that  
 338 the applicant has a certified copy of a signed agreement with a

339 beneficiary for use of the facility. If the applicant is a  
 340 beneficiary, the beneficiary must enter into an agreement with  
 341 the department. The applicant or beneficiary's agreement must  
 342 require the following:

343 a. If, before expiration of the agreement, the beneficiary  
 344 relocates to another venue or no longer occupies or uses the  
 345 facility as the facility's primary tenant, the beneficiary shall  
 346 reimburse the state for state funds distributed under this  
 347 section, plus a 5-percent penalty.

348 b. The beneficiary shall pay for signage or advertising  
 349 within the facility. The signage or advertising shall be placed  
 350 in a prominent location as close to the field of play or  
 351 competition as is practicable, shall be displayed consistent  
 352 with signage or advertising in the same location and be of like  
 353 value, and shall feature Florida advertising approved by the  
 354 Florida Tourism Industry Marketing Corporation.

355 8. That the total project cost is greater than \$100  
 356 million and more than one-half of the funds used to pay for the  
 357 project are from private sources.

358 9. The independent analysis submitted by the applicant  
 359 pursuant to paragraph (3)(d). The department shall consult with  
 360 the Department of Revenue or the Office of Economic and  
 361 Demographic Research to verify the independent analysis. Such  
 362 consultation may include the development of a standard  
 363 calculation for estimating new incremental state sales taxes  
 364 generated by sales at the facility and adjustments to

365 distributions.

366 (b) By February 1 of each year, as part of its annual  
 367 report submitted pursuant to paragraph (10)(a), the department  
 368 shall submit to the Governor, the President of the Senate, and  
 369 the Speaker of the House of Representatives an evaluation of  
 370 each application received during the application period that the  
 371 department recommends for legislative approval to receive a  
 372 distribution of state funds. The department's evaluation shall  
 373 include a list of the recommended projects, ranked in order of  
 374 projects most likely to produce a significant positive economic  
 375 impact within the state based on the following criteria:

376 1. The ability to provide a positive return on the state's  
 377 investment.

378 2. The proposed use of state funds.

379 3. The length of time that a beneficiary has agreed to use  
 380 the facility.

381 4. The percentage of total project funds provided by the  
 382 applicant, the percentage of total project funds provided by the  
 383 beneficiary, and the total amount of private or in-kind  
 384 contributions to the project.

385 5. The number and type of signature events that the  
 386 facility is likely to attract during the duration of the  
 387 agreement with the beneficiary. For purposes of this  
 388 subparagraph, the term "signature event" means a sporting event  
 389 that creates a significant positive economic impact within the  
 390 state, as determined by the department, and enhances the status

391 of the state as a premier sports tourism destination. Such  
 392 events may include, but are not limited to:  
 393 a. National Football League Super Bowls.  
 394 b. College Football Playoff games.  
 395 c. College football bowl games.  
 396 d. Professional sports all-star games.  
 397 e. International sporting events and tournaments.  
 398 f. Professional motorsports events.  
 399 6. The anticipated increase in average annual ticket sales  
 400 and attendance at the facility due to the project.  
 401 7. The potential to attract out-of-state visitors to the  
 402 facility.  
 403 8. The multiuse capabilities of the facility.  
 404 9. The facility's projected employment of residents of  
 405 this state, contracts with Florida-based firms, and purchases of  
 406 locally available building materials.  
 407 10. The amount of positive advertising or media coverage  
 408 that the facility generates.  
 409 11. The estimate by an independent certified public  
 410 accountant licensed in this state of the amount of new  
 411 incremental state sales taxes that the facility is expected to  
 412 generate annually as a result of the project provided pursuant  
 413 to subparagraph (3)(d)2.  
 414 12. The size and scope of the project and number of  
 415 temporary and permanent jobs that will be created as a direct  
 416 result of the facility improvement.

417 (c) The department may recommend no more than one  
 418 distribution under this section for any applicant, facility, or  
 419 beneficiary at a time.

420 (5) LEGISLATIVE APPROVAL.-

421 (a) In order for an applicant to receive a distribution of  
 422 state funds under s. 212.20(6)(d)6.f., its application must be  
 423 approved by the Legislature, enacted by general law approved by  
 424 the Governor in the manner provided in s. 8, Art. III of the  
 425 State Constitution.

426 (b) An applicant whose application is recommended by the  
 427 department but not approved by the Legislature may reapply and  
 428 update any information in the original application as required  
 429 by the department.

430 (6) CERTIFICATION AND CONTRACT.-

431 (a) To be certified by the department to receive a  
 432 distribution of state funds under s. 212.20(6)(d)6.f., an  
 433 applicant whose application is approved by the Legislature must  
 434 enter into a contract with the department that:

435 1. Specifies the terms of the state's investment.

436 2. States the criteria that the applicant must meet in  
 437 order to become and remain certified.

438 3. States that the applicant is subject to decertification  
 439 if recommended by the department and approved by the  
 440 Legislature.

441 4. Requires the applicant to submit the independent  
 442 analyses required under paragraphs (3)(d) and (7)(c).

443 5. Specifies information that the applicant must report to  
 444 the department.

445 6. Requires the applicant to reimburse the state in an  
 446 amount equal to the sum of the first five annual distributions  
 447 less 75 percent of the actual new incremental state sales taxes  
 448 generated by sales at the facility since the date of  
 449 certification of the applicant, plus a 5 percent penalty.

450 7. Beginning with the sixth annual distribution, requires  
 451 the applicant to reimburse the state each year in an amount  
 452 equal to the annual distribution received less 75 percent of the  
 453 actual new incremental state sales taxes generated by sales at  
 454 the facility during the most recent 12-month period.

455 8. Includes any other provisions deemed prudent by the  
 456 department.

457 (b) An application by a unit of local government which is  
 458 approved by the Legislature, enacted by general law approved by  
 459 the Governor, and subsequently certified by the department  
 460 remains certified for the duration of the beneficiary's  
 461 agreement with the applicant or for 30 years, whichever is less,  
 462 if the certified applicant has an agreement with a beneficiary  
 463 at the time of initial certification by the department.

464 (c) An application by a beneficiary which is approved by  
 465 the Legislature, enacted by general law approved by the  
 466 Governor, and subsequently certified by the department remains  
 467 certified for the duration of the beneficiary's agreement with  
 468 the unit of local government that owns the underlying property

469 or for 30 years, whichever is less, if the certified applicant  
 470 has an agreement with the unit of local government at the time  
 471 of initial certification by the department.

472 (d) An applicant that is certified under this section does  
 473 not require legislative approval in any subsequent year in order  
 474 to continue to receive distributions of state funding authorized  
 475 pursuant to that certification.

476 (7) DISTRIBUTIONS.-

477 (a) The Department of Revenue shall begin distributions  
 478 within 60 days after notification of initial certification by  
 479 the department.

480 (b) The department shall determine the amount of the first  
 481 five annual distributions to be disbursed to a certified  
 482 applicant before receipt of the analysis required under  
 483 paragraph (c). The determination of the distribution amounts  
 484 shall be based on the estimate of the amount of new incremental  
 485 state sales taxes that the facility is expected to generate as a  
 486 result of the project provided pursuant to subparagraph (3)(d)2.  
 487 However, a certified applicant may not receive an annual  
 488 distribution amount under this paragraph that exceeds 75 percent  
 489 of the estimated new incremental state sales taxes generated by  
 490 sales at the facility or \$2 million, whichever is less.

491 (c) Before the sixth annual distribution, as near to such  
 492 distribution as determined practicable by the department by  
 493 rule, a certified applicant shall submit to the department an  
 494 analysis prepared by an independent certified public accountant



495 licensed in this state demonstrating the actual amount of new  
 496 incremental state sales taxes generated by sales at the facility  
 497 since the date of certification. The applicant shall certify to  
 498 the department a comparison of the actual amount of state sales  
 499 taxes generated by sales at the facility since the date of  
 500 certification to the sum of the first five annual distributions.  
 501 The department shall verify the analysis. The department may  
 502 consult with the Department of Revenue to verify the analysis.

503 (d) The amount of a sixth or subsequent annual  
 504 distribution to be disbursed to a certified applicant shall be  
 505 determined by the department based on the estimate of the amount  
 506 of new incremental state sales taxes that the facility is  
 507 expected to generate annually in excess of the baseline amount  
 508 as a result of the project provided pursuant to subparagraph  
 509 (3)(d)2. However, a sixth or subsequent annual distribution to a  
 510 certified applicant may not exceed 75 percent of the estimated  
 511 amount of new incremental state sales taxes generated by sales  
 512 at the facility or \$2 million, whichever is less.

513 (e) The department may not certify new distributions for  
 514 additional certified applicants if total distributions for all  
 515 certified applicants equal or exceed \$12 million in any 12-month  
 516 period.

517 (8) USE OF FUNDS.—A certified applicant may only use state  
 518 funds distributed under this section for the following purposes:

519 (a) Constructing, reconstructing, renovating, or improving  
 520 a facility or reimbursing such costs.

521 (b) Paying or pledging the payment of debt service on, or  
 522 to fund debt service reserve funds, arbitrage rebate  
 523 obligations, or other amounts payable with respect thereto;  
 524 bonds issued for the construction or renovation of such  
 525 facility; or for the reimbursement of such costs or the  
 526 refinancing of bonds issued for such purposes.

527 (9) REPAYMENT OF DISTRIBUTIONS.-

528 (a) If a beneficiary breaks the terms of its agreement  
 529 with a certified applicant and relocates to another venue or no  
 530 longer occupies or uses the facility as the facility's primary  
 531 tenant, the beneficiary shall reimburse the state for state  
 532 funds that have been distributed, plus a 5-percent penalty.

533 (b) If the department determines that a certified  
 534 applicant has submitted information or made a representation  
 535 that is false, misleading, deceptive, or otherwise untrue, the  
 536 certified applicant shall reimburse the state for state funds  
 537 that have been distributed, plus a 5-percent penalty.

538 (c) A certified applicant shall reimburse the state in an  
 539 amount equal to the sum of the first five annual distributions  
 540 less 75 percent of the actual new incremental state sales taxes  
 541 generated by sales at the facility since certification of the  
 542 applicant, plus a 5 percent penalty.

543 (d) Beginning with the sixth annual distribution, a  
 544 certified applicant shall reimburse the state each year in an  
 545 amount equal to the annual distribution received less 75 percent  
 546 of the actual new incremental state sales taxes generated by

547 sales at the facility during the most recent 12-month period.

548 (e) If a certified applicant is unable or unwilling to  
 549 reimburse the state as required by paragraphs (b), paragraph  
 550 (c), or paragraph (d), the department may place a lien on the  
 551 certified applicant's facility. If the applicant is a  
 552 municipality or county, it may reimburse the state using local  
 553 government half-cent sales tax distributions as provided in s.  
 554 218.64(3). Reimbursements shall be sent to the Department of  
 555 Revenue for deposit into the General Revenue Fund.

556 (10) REPORTS.—

557 (a) By February 1 of each year, the department shall  
 558 submit an annual report to the Governor, the President of the  
 559 Senate, and the Speaker of the House of Representatives. The  
 560 report shall include the department's recommendations submitted  
 561 for legislative approval under paragraph (4)(b) and any other  
 562 information required to be submitted pursuant to this  
 563 subsection.

564 (b) On or before November 1 of each year, a certified  
 565 applicant approved to receive state funds under this section  
 566 shall submit to the department any information required by the  
 567 department. The department shall summarize this information for  
 568 inclusion in its annual report submitted under paragraph (a).

569 (c) Every 3 years after the first month that a certified  
 570 applicant receives a monthly distribution, the department shall  
 571 verify that the applicant is meeting the program requirements.  
 572 If the applicant is not meeting program requirements, the

573 department shall notify the Governor, the President of the  
 574 Senate, and the Speaker of the House of Representatives of the  
 575 requirements not being met and shall recommend future action as  
 576 part of the department's annual report submitted under paragraph  
 577 (a). The department shall consider any extenuating circumstances  
 578 that may have prevented the applicant from meeting the program  
 579 requirements, such as a force majeure event or a significant  
 580 economic downturn.

581 (11) AUDITS.—Every 5 years beginning in 2020, the Auditor  
 582 General shall conduct audits pursuant to s. 11.45 to verify the  
 583 independent analyses required under paragraph (7)(c) and to  
 584 verify that distributions were expended in accordance with this  
 585 section. The Auditor General shall report the findings to the  
 586 department. If the Auditor General determines that a  
 587 distribution was not expended in accordance with this section,  
 588 the Auditor General shall notify the Department of Revenue,  
 589 which may pursue recovery of the distribution under the laws and  
 590 rules that govern the assessment of taxes.

591 (12) HALTING OF PAYMENTS.—

592 (a) A certified applicant may request to halt future  
 593 distributions by providing the department with written notice at  
 594 least 20 days before the next monthly distribution payment. Upon  
 595 receiving such notice, the department shall immediately notify  
 596 the Department of Revenue to halt future payments.

597 (b) If a certified applicant fails to make timely  
 598 reimbursements as required under paragraph (9)(c) or paragraph

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599 (9) (d), the department shall direct the Department of Revenue to  
600 halt future distributions to the certified applicant.

601 (13) RULEMAKING.—The department may adopt rules to  
602 administer this section.

603 Section 5. This act shall take effect July 1, 2014.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7095 (2014)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER \_\_\_\_\_

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1 Committee/Subcommittee hearing bill: Appropriations Committee  
2 Representative Patronis offered the following:

3  
4 **Amendment**

5 Remove everything after the enacting clause and insert:

6 Section 1. Paragraph (d) of subsection (6) of section  
7 212.20, Florida Statutes, is amended to read:

8 212.20 Funds collected, disposition; additional powers of  
9 department; operational expense; refund of taxes adjudicated  
10 unconstitutionally collected.-

11 (6) Distribution of all proceeds under this chapter and s.  
12 202.18(1)(b) and (2)(b) shall be as follows:

13 (d) The proceeds of all other taxes and fees imposed  
14 pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)  
15 and (2)(b) shall be distributed as follows:

16 1. In any fiscal year, the greater of \$500 million, minus  
17 an amount equal to 4.6 percent of the proceeds of the taxes

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18 collected pursuant to chapter 201, or 5.2 percent of all other  
19 taxes and fees imposed pursuant to this chapter or remitted  
20 pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in  
21 monthly installments into the General Revenue Fund.

22 2. After the distribution under subparagraph 1., 8.814  
23 percent of the amount remitted by a sales tax dealer located  
24 within a participating county pursuant to s. 218.61 shall be  
25 transferred into the Local Government Half-cent Sales Tax  
26 Clearing Trust Fund. Beginning July 1, 2003, the amount to be  
27 transferred shall be reduced by 0.1 percent, and the department  
28 shall distribute this amount to the Public Employees Relations  
29 Commission Trust Fund less \$5,000 each month, which shall be  
30 added to the amount calculated in subparagraph 3. and  
31 distributed accordingly.

32 3. After the distribution under subparagraphs 1. and 2.,  
33 0.095 percent shall be transferred to the Local Government Half-  
34 cent Sales Tax Clearing Trust Fund and distributed pursuant to  
35 s. 218.65.

36 4. After the distributions under subparagraphs 1., 2., and  
37 3., 2.0440 percent of the available proceeds shall be  
38 transferred monthly to the Revenue Sharing Trust Fund for  
39 Counties pursuant to s. 218.215.

40 5. After the distributions under subparagraphs 1., 2., and  
41 3., 1.3409 percent of the available proceeds shall be  
42 transferred monthly to the Revenue Sharing Trust Fund for  
43 Municipalities pursuant to s. 218.215. If the total revenue to

COMMITTEE/SUBCOMMITTEE AMENDMENT

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44 be distributed pursuant to this subparagraph is at least as  
45 great as the amount due from the Revenue Sharing Trust Fund for  
46 Municipalities and the former Municipal Financial Assistance  
47 Trust Fund in state fiscal year 1999-2000, no municipality shall  
48 receive less than the amount due from the Revenue Sharing Trust  
49 Fund for Municipalities and the former Municipal Financial  
50 Assistance Trust Fund in state fiscal year 1999-2000. If the  
51 total proceeds to be distributed are less than the amount  
52 received in combination from the Revenue Sharing Trust Fund for  
53 Municipalities and the former Municipal Financial Assistance  
54 Trust Fund in state fiscal year 1999-2000, each municipality  
55 shall receive an amount proportionate to the amount it was due  
56 in state fiscal year 1999-2000.

57 6. Of the remaining proceeds:

58 a. In each fiscal year, the sum of \$29,915,500 shall be  
59 divided into as many equal parts as there are counties in the  
60 state, and one part shall be distributed to each county. The  
61 distribution among the several counties must begin each fiscal  
62 year on or before January 5th and continue monthly for a total  
63 of 4 months. If a local or special law required that any moneys  
64 accruing to a county in fiscal year 1999-2000 under the then-  
65 existing provisions of s. 550.135 be paid directly to the  
66 district school board, special district, or a municipal  
67 government, such payment must continue until the local or  
68 special law is amended or repealed. The state covenants with  
69 holders of bonds or other instruments of indebtedness issued by

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70 local governments, special districts, or district school boards  
71 before July 1, 2000, that it is not the intent of this  
72 subparagraph to adversely affect the rights of those holders or  
73 relieve local governments, special districts, or district school  
74 boards of the duty to meet their obligations as a result of  
75 previous pledges or assignments or trusts entered into which  
76 obligated funds received from the distribution to county  
77 governments under then-existing s. 550.135. This distribution  
78 specifically is in lieu of funds distributed under s. 550.135  
79 before July 1, 2000.

80 b. The department shall distribute \$166,667 monthly  
81 pursuant to s. 288.1162 to each applicant certified as a  
82 facility for a new or retained professional sports franchise  
83 pursuant to s. 288.1162. Up to \$41,667 shall be distributed  
84 monthly by the department to each certified applicant as defined  
85 in s. 288.11621 for a facility for a spring training franchise.  
86 However, not more than \$416,670 may be distributed monthly in  
87 the aggregate to all certified applicants for facilities for  
88 spring training franchises. Distributions begin 60 days after  
89 such certification and continue for not more than 30 years,  
90 except as otherwise provided in s. 288.11621. A certified  
91 applicant identified in this sub-subparagraph may not receive  
92 more in distributions than expended by the applicant for the  
93 public purposes provided for in s. 288.1162(5) or s.  
94 288.11621(3).

95 c. Beginning 30 days after notice by the Department of

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96 Economic Opportunity to the Department of Revenue that an  
97 applicant has been certified as the professional golf hall of  
98 fame pursuant to s. 288.1168 and is open to the public, \$166,667  
99 shall be distributed monthly, for up to 300 months, to the  
100 applicant.

101 d. Beginning 30 days after notice by the Department of  
102 Economic Opportunity to the Department of Revenue that the  
103 applicant has been certified as the International Game Fish  
104 Association World Center facility pursuant to s. 288.1169, and  
105 the facility is open to the public, \$83,333 shall be distributed  
106 monthly, for up to 168 months, to the applicant. This  
107 distribution is subject to reduction pursuant to s. 288.1169. A  
108 lump sum payment of \$999,996 shall be made, after certification  
109 and before July 1, 2000.

110 e. The department shall distribute up to \$55,555 monthly  
111 to each certified applicant as defined in s. 288.11631 for a  
112 facility used by a single spring training franchise, or up to  
113 \$111,110 monthly to each certified applicant as defined in s.  
114 288.11631 for a facility used by more than one spring training  
115 franchise. Monthly distributions begin 60 days after such  
116 certification or July 1, 2016, whichever is later, and continue  
117 for not more than 30 years, except as otherwise provided in s.  
118 288.11631. A certified applicant identified in this sub-  
119 subparagraph may not receive more in distributions than expended  
120 by the applicant for the public purposes provided in s.  
121 288.11631(3).

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Amendment No. 1

122 f. Beginning 60 days after notice by the Department of  
123 Economic Opportunity to the Department of Revenue that an  
124 applicant has been approved by the Legislature, enacted by  
125 general law approved by the Governor, and certified by the  
126 Department of Economic Opportunity under s. 288.11625, the  
127 department shall distribute each month an amount equal to one-  
128 twelfth the annual distribution amount certified by the  
129 Department of Economic Opportunity for the applicant. The  
130 department may not distribute more than \$12 million annually to  
131 all applicants approved by the Legislature and certified by the  
132 Department of Economic Opportunity pursuant to s. 288.11625.

133 7. All other proceeds must remain in the General Revenue  
134 Fund.

135 Section 2. Subsections (2) and (3) of section 218.64,  
136 Florida Statutes, are amended to read:

137 218.64 Local government half-cent sales tax; uses;  
138 limitations.—

139 (2) Municipalities shall expend their portions of the  
140 local government half-cent sales tax only for municipality-wide  
141 programs, for reimbursing the state as required by a contract  
142 pursuant to s. 288.11625(6), or for municipality-wide property  
143 tax or municipal utility tax relief. All utility tax rate  
144 reductions afforded by participation in the local government  
145 half-cent sales tax shall be applied uniformly across all types  
146 of taxed utility services.

147 (3) Subject to ordinances enacted by the majority of the

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148 members of the county governing authority and by the majority of  
149 the members of the governing authorities of municipalities  
150 representing at least 50 percent of the municipal population of  
151 such county, counties may use up to \$2 million annually of the  
152 local government half-cent sales tax allocated to that county  
153 for funding for any of the following purposes ~~applicants~~:

154 (a) Funding a certified applicant as a facility for a new  
155 or retained professional sports franchise under s. 288.1162 or a  
156 certified applicant as defined in s. 288.11621 for a facility  
157 for a spring training franchise. It is the Legislature's intent  
158 that the provisions of s. 288.1162, including, but not limited  
159 to, the evaluation process by the Department of Economic  
160 Opportunity except for the limitation on the number of certified  
161 applicants or facilities as provided in that section and the  
162 restrictions set forth in s. 288.1162(8), shall apply to an  
163 applicant's facility to be funded by local government as  
164 provided in this subsection.

165 (b) Funding a certified applicant as a "motorsport  
166 entertainment complex," as provided for in s. 288.1171. Funding  
167 for each franchise or motorsport complex shall begin 60 days  
168 after certification and shall continue for not more than 30  
169 years.

170 (c) Reimbursing the state as required by a contract  
171 pursuant to s. 288.11625(6).

172 Section 3. Paragraph (b) of subsection (2) of section  
173 288.0001, Florida Statutes, is amended to read:

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174 288.0001 Economic Development Programs Evaluation.—The  
175 Office of Economic and Demographic Research and the Office of  
176 Program Policy Analysis and Government Accountability (OPPAGA)  
177 shall develop and present to the Governor, the President of the  
178 Senate, the Speaker of the House of Representatives, and the  
179 chairs of the legislative appropriations committees the Economic  
180 Development Programs Evaluation.

181 (2) The Office of Economic and Demographic Research and  
182 OPPAGA shall provide a detailed analysis of economic development  
183 programs as provided in the following schedule:

184 (b) By January 1, 2015, and every 3 years thereafter, an  
185 analysis of the following:

186 1. The entertainment industry financial incentive program  
187 established under s. 288.1254.

188 2. The entertainment industry sales tax exemption program  
189 established under s. 288.1258.

190 3. The VISIT Florida Tourism Industry Marketing  
191 Corporation and its programs established or funded under ss.  
192 288.122, 288.1226, 288.12265, and 288.124.

193 4. The Florida Sports Foundation and related programs  
194 established under ss. 288.1162, 288.11621, 288.11625, 288.1166,  
195 288.1167, 288.1168, 288.1169, and 288.1171.

196 Section 4. Section 288.11625, Florida Statutes, is created  
197 to read:

198 288.11625 Professional sports facility incentive program.—

199 (1) PURPOSE.—There is created within the department the

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200 professional sports facility incentive program. The purpose of  
201 the program is to provide for distributions of state funding to  
202 applicants under s. 212.20(6)(d)6.f. for the public purpose of  
203 constructing, reconstructing, renovating, or improving a  
204 facility.

205 (2) DEFINITIONS.—As used in this section, the term:

206 (a) "Beneficiary" means a professional sports franchise of  
207 the National Football League, the National Hockey League, the  
208 National Basketball Association, the National League or the  
209 American League of Major League Baseball, the National  
210 Association of Professional Baseball Leagues, Major League  
211 Soccer, or the North American Soccer League, the Professional  
212 Rodeo Cowboy Association, the National Association for Stock Car  
213 Auto Racing, or other nationally recognized professional sports  
214 association that occupies or uses a facility as the facility's  
215 primary tenant. A beneficiary may also be an applicant under  
216 this section.

217 (b) "Facility" means a facility used primarily to host  
218 games or events held by a beneficiary. The term does not include  
219 any portion of a facility used for transient lodging. The term  
220 also does not include a Major League Baseball spring training  
221 facility, a facility certified under s. 288.1168, or a facility  
222 certified under s. 288.1169.

223 (c) "Project" means the proposed construction,  
224 reconstruction, renovation, or improvement of a facility or the  
225 proposed acquisition of land to construct a new facility.

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226 (d) "State sales taxes generated by sales at the facility"  
227 means state sales taxes imposed under chapter 212 and generated  
228 by admissions to the facility, by parking on property owned or  
229 controlled by the beneficiary or the applicant, or by sales made  
230 by vendors at the facility.

231 (3) APPLICATION PROCESS.-

232 (a) To apply for a distribution of state funds under s.  
233 212.20(6)(d)6.f., an applicant must:

234 1. Be a unit of local government, as defined in s.  
235 218.369, that is responsible for construction, management, or  
236 operation of a facility; or

237 2. If not a unit of local government, be another entity  
238 responsible for construction, management, or operation of a  
239 facility, in which case, a unit of local government must hold  
240 title to the property on which the facility is or will be  
241 located.

242 (b) The annual application period is June 1 through  
243 November 1.

244 (c) The department shall establish procedures and  
245 application forms deemed necessary pursuant to the requirements  
246 of this section. The department may notify an applicant of any  
247 incomplete or additional required information necessary for the  
248 department to evaluate the application.

249 (d) Each application shall include an independent analysis  
250 prepared by a certified public accountant licensed in this state  
251 that demonstrates:

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252       1. The average annual amount of state sales taxes  
253 generated by sales at the facility during the 36-month period  
254 immediately before the beginning of the application period,  
255 which shall be known as the "baseline amount."

256       2. The expected amount of new incremental state sales  
257 taxes generated by sales at the facility in excess of the  
258 baseline amount to be generated annually as a result of the  
259 project.

260       (e) Each application may include a statement describing  
261 the positive economic impact the project is expected to have on  
262 the state.

263       (f) Within 60 days after receipt of a completed  
264 application, the department shall evaluate the application as  
265 provided in subsection (4) and notify the applicant in writing  
266 of the department's decision to recommend legislative approval  
267 of the application or to deny the application.

268       (4) EVALUATION PROCESS.—

269       (a) Before recommending an applicant for a distribution of  
270 state funds under s. 212.20(6)(d)6.f., the department shall  
271 verify:

272       1. That the applicant or beneficiary is responsible for  
273 construction, reconstruction, renovation, or improvement of the  
274 facility.

275       2. If the applicant is also the beneficiary, that a unit  
276 of local government holds title to the property on which the  
277 facility and project are or will be located.



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278 3. If the applicant is a unit of local government within  
279 whose jurisdiction the facility is or will be located, that the  
280 unit of local government has an exclusive intent agreement to  
281 negotiate in this state with the beneficiary.

282 4. That the unit of local government, within whose  
283 jurisdiction the facility is or will be located, supports the  
284 application for state funds. Such support must be verified by  
285 adoption, after a public hearing, of a resolution that the  
286 project serves a public purpose.

287 5. That the applicant or beneficiary has not previously  
288 defaulted or failed to meet any statutory requirement of a  
289 previous state-administered sports-related program under this  
290 chapter.

291 6. That the applicant or beneficiary has sufficiently  
292 demonstrated a commitment to employ residents of this state,  
293 contract with Florida-based firms, and purchase locally  
294 available building materials to the greatest extent practicable.

295 7. If the applicant is a unit of local government, that  
296 the applicant has a certified copy of a signed agreement with a  
297 beneficiary for use of the facility. If the applicant is a  
298 beneficiary, the beneficiary must enter into an agreement with  
299 the department. The applicant or beneficiary's agreement must  
300 require the following:

301 a. If, before expiration of the agreement, the beneficiary  
302 relocates to another venue or no longer occupies or uses the  
303 facility as the facility's primary tenant, the beneficiary shall

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304 reimburse the state for state funds distributed under this  
305 section, plus a 5-percent penalty.

306 b. The beneficiary shall pay for signage or advertising  
307 within the facility. The signage or advertising shall be placed  
308 in a prominent location as close to the field of play or  
309 competition as is practicable, shall be displayed consistent  
310 with signage or advertising in the same location and be of like  
311 value, and shall feature Florida advertising approved by the  
312 Florida Tourism Industry Marketing Corporation.

313 8. That the total project cost is greater than \$100  
314 million and more than one-half of the funds used to pay for the  
315 project are from private sources.

316 9. The independent analysis submitted by the applicant  
317 pursuant to paragraph (3)(d). The department shall consult with  
318 the Department of Revenue or the Office of Economic and  
319 Demographic Research to verify the independent analysis. Such  
320 consultation may include the development of a standard  
321 calculation for estimating new incremental state sales taxes  
322 generated by sales at the facility and adjustments to  
323 distributions.

324 (b) By February 1 of each year, as part of its annual  
325 report submitted pursuant to paragraph (10)(a), the department  
326 shall submit to the Governor, the President of the Senate, and  
327 the Speaker of the House of Representatives an evaluation of  
328 each application received during the application period.

329 (c) The department shall include a list of all

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330 applications the department recommends to receive a distribution  
331 of state funds, ranked in order of projects most likely to  
332 produce a significant positive economic impact within the state  
333 based on the following criteria:

334 1. The ability to provide a positive return on the state's  
335 investment.

336 2. The proposed use of state funds.

337 3. The length of time that a beneficiary has agreed to use  
338 the facility.

339 4. The percentage of total project funds provided by the  
340 applicant, the percentage of total project funds provided by the  
341 beneficiary, and the total amount of private or in-kind  
342 contributions to the project.

343 5. The number and type of signature events that the  
344 facility is likely to attract during the duration of the  
345 agreement with the beneficiary. For purposes of this  
346 subparagraph, the term "signature event" means a sporting event  
347 that creates a significant positive economic impact within the  
348 state, as determined by the department, and enhances the status  
349 of the state as a premier sports tourism destination. Such  
350 events may include, but are not limited to:

351 a. National Football League Super Bowls.

352 b. College Football Playoff games.

353 c. College football bowl games.

354 d. Professional sports all-star games.

355 e. International sporting events and tournaments.

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- 356 f. Professional motorsports events.
- 357 6. The anticipated increase in average annual ticket sales  
358 and attendance at the facility due to the project.
- 359 7. The potential to attract out-of-state visitors to the  
360 facility.
- 361 8. The multiuse capabilities of the facility.
- 362 9. The facility's projected employment of residents of  
363 this state, contracts with Florida-based firms, and purchases of  
364 locally available building materials.
- 365 10. The amount of positive advertising or media coverage  
366 that the facility generates.
- 367 11. The estimate by an independent certified public  
368 accountant licensed in this state of the amount of new  
369 incremental state sales taxes that the facility is expected to  
370 generate annually as a result of the project provided pursuant  
371 to subparagraph (3)(d)2.
- 372 12. The size and scope of the project and number of  
373 temporary and permanent jobs that will be created as a direct  
374 result of the facility improvement.
- 375 (c) The department may certify no more than one  
376 distribution under this section for any applicant, facility, or  
377 beneficiary at a time.
- 378 (5) LEGISLATIVE APPROVAL.-
- 379 (a) In order for an applicant to receive a distribution of  
380 state funds under s. 212.20(6)(d)6.f., its application must be  
381 approved by the Legislature, enacted by general law approved by

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382 the Governor in the manner provided in s. 8, Art. III of the  
383 State Constitution.

384 (b) An applicant whose application is received by the  
385 department but not approved by the Legislature may reapply and  
386 update any information in the original application as required  
387 by the department.

388 (6) CERTIFICATION AND CONTRACT.—

389 (a) To be certified by the department to receive a  
390 distribution of state funds under s. 212.20(6)(d)6.f., an  
391 applicant whose application is approved by the Legislature must  
392 enter into a contract with the department that:

393 1. Specifies the terms of the state's investment.

394 2. States the criteria that the applicant must meet in  
395 order to become and remain certified.

396 3. States that the applicant is subject to decertification  
397 by the department or by the Legislature.

398 4. Requires the applicant to submit the independent  
399 analyses required under paragraphs (3)(d) and (7)(c).

400 5. Specifies information that the applicant must report to  
401 the department.

402 6. Requires the applicant to reimburse the state in the  
403 manner prescribed in paragraph (9)(c).

404 7. Includes any other provisions deemed prudent by the  
405 department.

406 (b) An application by a unit of local government which is  
407 approved by the Legislature, enacted by general law approved by

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408 the Governor, and subsequently certified by the department  
409 remains certified for the duration of the beneficiary's  
410 agreement with the applicant or for 30 years, whichever is less,  
411 if the certified applicant has an agreement with a beneficiary  
412 at the time of initial certification by the department.

413 (c) An application by a beneficiary which is approved by  
414 the Legislature, enacted by general law approved by the  
415 Governor, and subsequently certified by the department remains  
416 certified for the duration of the beneficiary's agreement with  
417 the unit of local government that owns the underlying property  
418 or for 30 years, whichever is less, if the certified applicant  
419 has an agreement with the unit of local government at the time  
420 of initial certification by the department.

421 (d) An applicant that is certified under this section does  
422 not require legislative approval in any subsequent year in order  
423 to continue to receive distributions of state funding authorized  
424 pursuant to that certification.

425 (7) DISTRIBUTIONS.—

426 (a) The Department of Revenue shall begin distributions  
427 within 60 days after notification of initial certification by  
428 the department.

429 (b) The department shall determine the amount of each  
430 annual distribution to be disbursed to a certified applicant  
431 based on the estimate of the amount of new incremental state  
432 sales taxes that the facility is expected to generate as a  
433 result of the project provided pursuant to subparagraph (3)(d)2.

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434 However, a certified applicant may not receive an annual  
435 distribution amount under this paragraph that exceeds 75 percent  
436 of the estimated new incremental state sales taxes generated by  
437 sales at the facility or \$2 million, whichever is less.

438 (c) Beginning 12 months following certification, and for  
439 each year an applicant remains certified by the department, a  
440 certified applicant shall submit to the department an analysis  
441 prepared by an independent certified public accountant licensed  
442 in this state demonstrating the actual amount of new incremental  
443 state sales taxes generated by sales at the facility over the  
444 previous 12-month period. The department shall verify the  
445 analysis. The department may consult with the Department of  
446 Revenue to verify the analysis.

447 (d) The department may not certify new distributions for  
448 additional certified applicants if total distributions for all  
449 certified applicants equal or exceed \$12 million in any 12-month  
450 period.

451 (8) USE OF FUNDS.—A certified applicant may only use state  
452 funds distributed under this section for the following purposes:

453 (a) Constructing, reconstructing, renovating, or improving  
454 a facility or reimbursing such costs.

455 (b) Paying or pledging the payment of debt service on, or  
456 to fund debt service reserve funds, arbitrage rebate  
457 obligations, or other amounts payable with respect thereto;  
458 bonds issued for the construction or renovation of such  
459 facility; or for the reimbursement of such costs or the

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460 refinancing of bonds issued for such purposes.

461 (9) REPAYMENT OF DISTRIBUTIONS.—

462 (a) If a beneficiary breaks the terms of its agreement  
463 with a certified applicant and relocates to another venue or no  
464 longer occupies or uses the facility as the facility's primary  
465 tenant, the beneficiary shall reimburse the state for state  
466 funds that have been distributed, plus a 5-percent penalty.

467 (b) If the department determines that a certified  
468 applicant has submitted information or made a representation  
469 that is false, misleading, deceptive, or otherwise untrue, the  
470 department shall decertify the certified applicant and direct  
471 the Department of Revenue to halt distributions. The certified  
472 applicant shall reimburse the state for state funds that have  
473 been distributed, plus a 5-percent penalty.

474 (c) Beginning 24 months after the first annual  
475 distribution has been disbursed, a certified applicant shall  
476 reimburse the state in an amount equal to each subsequent annual  
477 distribution less 75 percent of the actual new incremental state  
478 sales taxes generated by sales at the facility each year that an  
479 applicant is certified, plus a 5 percent penalty. Such  
480 reimbursements must be submitted to the Department of Revenue no  
481 later than 60 days following the certified applicant's final  
482 annual distribution as determined by the certified applicant's  
483 contract with the department.

484 (d) If a certified applicant is unable or unwilling to  
485 reimburse the state as required by paragraphs (b) or (c), the



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486 department may place a lien on the certified applicant's  
487 facility. If the applicant is a municipality or county, it may  
488 reimburse the state using local government half-cent sales tax  
489 distributions as provided in s. 218.64(3). Reimbursements shall  
490 be sent to the Department of Revenue for deposit into the  
491 General Revenue Fund.

492 (10) REPORTS.—

493 (a) By February 1 of each year, the department shall  
494 submit an annual report to the Governor, the President of the  
495 Senate, and the Speaker of the House of Representatives. The  
496 report shall include evaluations of each application received by  
497 the department during the application period, the department's  
498 ranking of recommended applications submitted for legislative  
499 approval under paragraph (4) (b), and any other information  
500 required to be submitted pursuant to this subsection.

501 (b) On or before November 1 of each year, a certified  
502 applicant approved to receive state funds under this section  
503 shall submit to the department any information required by the  
504 department. The department shall summarize this information for  
505 inclusion in its annual report submitted under paragraph (a).

506 (c) Every 3 years after the first month that a certified  
507 applicant receives a monthly distribution, the department shall  
508 verify that the applicant is meeting the program requirements.  
509 If the applicant is not meeting program requirements, the  
510 department shall notify the Governor, the President of the  
511 Senate, and the Speaker of the House of Representatives of the

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512 requirements not being met and shall recommend future action as  
513 part of the department's annual report submitted under paragraph  
514 (a). The department shall consider any extenuating circumstances  
515 that may have prevented the applicant from meeting the program  
516 requirements, such as a force majeure event or a significant  
517 economic downturn.

518 (11) AUDITS.—Every 5 years beginning in 2020, the Auditor  
519 General shall conduct audits pursuant to s. 11.45 to verify the  
520 independent analyses required under paragraph (7)(c), and to  
521 verify that distributions were expended in accordance with this  
522 section. The Auditor General shall report the findings to the  
523 department. If the Auditor General determines that a  
524 distribution was not expended in accordance with this section,  
525 the Auditor General shall notify the Department of Revenue,  
526 which may pursue recovery of the distribution under the laws and  
527 rules that govern the assessment of taxes.

528 (12) HALTING OF DISTRIBUTIONS.— A certified applicant may  
529 request to halt future distributions by providing the department  
530 with written notice at least 20 days before the next monthly  
531 distribution payment. Upon receiving such notice, the department  
532 shall immediately notify the Department of Revenue to halt  
533 future payments.

534 (13) RULEMAKING.—The department may adopt rules to  
535 administer this section.

536 Section 5. This act shall take effect July 1, 2014.

537



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# Appropriations Committee

Tuesday, April 1, 2014  
2:30 PM – 5:00 PM  
212 Knott Building

Addendum A

Meeting Packet

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 7069 (2014)

Amendment No. 6

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Appropriations Committee  
2 Representative O'Toole offered the following:

3  
4 **Amendment**

5 Remove lines 1739-1773 and insert:

6 operating under s. 402.316(4);

7 2. Be an entity that is part of Florida's education system  
8 under s. 1000.04(1); or a public school or nonpublic school  
9 exempt from licensure under s. 402.3025, a faith based child  
10 care provider exempt from licensure under s. 402.316, a before-  
11 school or after school program described in s. 402.305(1)(c), or

12 3. Be an informal child care provider to the extent  
13 authorized in the state's Child Care and Development Fund Plan  
14 as approved by the United States Department of Health and Human  
15 Services pursuant to 45 C.F.R. s. 98.18.

16 (b) Provide instruction and activities to enhance the age-  
17 appropriate progress of each child in attaining the child

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 7069 (2014)

Amendment No. 6

18 development standards adopted by the office pursuant to s.  
19 1002.82(2)(j). A provider should include activities to foster  
20 brain development in infants and toddlers; provide an  
21 environment that is rich in language and music and filled with  
22 objects of various colors, shapes, textures, and sizes to  
23 stimulate visual, tactile, auditory, and linguistic senses; and  
24 include 30 minutes of reading to children each day. A provider  
25 must provide parents information on child development,  
26 expectations for parent engagement, the daily schedule, and the  
27 attendance policy.

28 (c) Provide basic health and safety of its premises and  
29 facilities in accordance with applicable licensing and  
30 inspection requirements and compliance with requirements for  
31 age appropriate immunizations of children enrolled in the school  
32 readiness program. For a child care facility, a large family  
33 child care home, or a licensed family child day care home,  
34 compliance with s. 402.305, s. 402.3131, or s. 402.313 satisfies  
35 this requirement. For a public ~~or nonpublic~~ school, compliance  
36 with ss. s. 402.3025 or s. 1003.22 and 1013.12 satisfies this  
37 requirement. For a nonpublic school, compliance with s.  
38 402.3025(2)(d) satisfies this requirement. For a facility exempt  
39 from licensure, compliance with s. 402.316(4) satisfies this  
40 requirement. For an informal provider, compliance with s.  
41 402.302(17) satisfies this requirement. A provider shall be  
42 denied initial eligibility to  
43

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7095 (2014)

Amendment No. 1a

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

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1 Committee/Subcommittee hearing bill: Appropriations Committee  
2 Representative Patronis offered the following:

3  
4 **Amendment to Amendment (957421) by Representative Patronis**

5 Remove line 212 of the amendment and insert:

6 Rodeo Cowboy Association, the promoter of a signature event  
7 sanctioned by the National Association for Stock Car  
8