SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Education Committee

BILL: SB 2-A

SPONSOR: Senator Carlton

SUBJECT: Early Learning

DATE: December 14, 2004 REVISED: _____ _____ _____ _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gillespie	Cooper	CM	**Favorable**
2.	Matthews	O'Farrell	ED	**Favorable**
3.				
4.				
5.				
6.				

I. Summary:

Senate Bill 2-A creates the Voluntary Prekindergarten Education Program. The program allows a parent to enroll his or her child in a voluntary, free prekindergarten (Pre-K) program offered during the year before the child is eligible for admission to kindergarten. The program affords parents of eligible children a choice among three program options:

- A 540-instructional-hour school-year Pre-K program delivered by a private prekindergarten provider that has a director with a prekindergarten director credential, that has classes of at least 4 and not more than 18 students, and that has for each class at least one instructor who holds at least a child development associate (CDA) or equivalent state-approved credential and who completes a 5-clock-hour course in emergent literacy training;
- A 300-instructional-hour summer Pre-K program delivered by a public school or private prekindergarten provider that has classes of at least 4 and not more than 10 students, and that has for each class at least one Florida-certified teacher or an instructor who holds a bachelor's or higher degree in specified early learning degree programs; or
- If offered in a school district that meets class-size reduction requirements, a 540-instructional-hour school-year Pre-K program delivered by a public school that has classes of at least 4 and not more than 18 students and that has for each class at least one instructor who holds at least a CDA or equivalent state-approved credential and who completes a 5-clock-hour course in emergent literacy training.

The bill specifies that every Pre-K program must provide appropriate adult supervision for students at all times. The bill requires prekindergarten instructors to be fingerprinted and screened and prohibits the employment of an instructor whose educator certificate is suspended or revoked or whose background includes certain criminal offenses.

The bill expresses the intent of the Legislature that, by the 2010-2011 school year, each Pre-K class will have at least one instructor who holds an associate's or higher degree and, for each Pre-K class composed of 11 or more students, in addition to an instructor with an associate's or higher degree, the class will have a second instructor who has a CDA or state-approved equivalent credential. Further, the bill expresses the legislative goal that, by the 2013-2014 school year, each Pre-K class will have at least one instructor who holds a bachelor's or higher degree.

The bill transfers the existing school readiness system from the Florida Partnership for School Readiness to the Agency for Workforce Innovation (AWI). AWI would be directly responsible for state-level coordination of the school readiness program and the school readiness coalitions, which the bill renames as "early learning coalitions." The bill reduces the number of coalitions to 30 or fewer coalitions and generally requires each coalition to serve at least 2,000 children in the school readiness program.

The bill directs the Pre-K program to be administered at the local level by the early learning coalitions and school districts. At the state level, the bill specifies that the Department of Education (DOE) shall administer the accountability requirements of the program and AWI shall administer the operational requirements of the program.

The bill directs DOE to adopt performance standards for the Pre-K program. The bill allows each private prekindergarten provider or public school to select or design its own curriculum for the Pre-K program if the curriculum addresses the Pre-K performance standards, including emergent literacy.

The bill replaces the current school readiness uniform screening instrument with a new statewide kindergarten screening to be used for determining whether children entering kindergarten are ready for school. The bill requires the Department of Education to assign each private prekindergarten provider and public school with a kindergarten readiness rate based upon the results of the kindergarten screening for students completing the provider's or school's Pre-K program.

If a provider's or school's kindergarten readiness rate falls below the minimum rate established by the State Board of Education for 2 consecutive years, the bill specifies that the provider or school is placed on probation and is subject to corrective actions, including the required use of a DOE-approved curriculum. If the provider or school falls below the minimum rate after 2 consecutive years on probation, the bill requires the ultimate removal of the provider or school from the Pre-K program.

The bill creates the Florida Early Learning Advisory Council within AWI to submit recommendations to the Department of Education and AWI on early learning policy, including the Pre-K and school readiness programs.

The bill provides appropriations totaling approximately $11.8 million from the General Revenue Fund and authorizes 42.5 additional positions in three state agencies (i.e., DOE, AWI, and Department of Children and Family Services) for the initial administrative and program development costs of the Pre-K program during the remaining months of the 2004-2005 fiscal

year. The bill also requires early learning coalitions to use school readiness funds made available due to enrollment shifts from school readiness programs to the Pre-K program for increasing the number of children served in school readiness programs before increasing payment rates.

This bill creates Part V of chapter 1002, Florida Statutes, which is entitled "Voluntary Prekindergarten Education Program" and consists of the following sections of the Florida Statutes: 1002.51, 1002.53, 1002.55, 1002.57, 1002.59, 1002.61, 1002.63, 1002.65, 1002.67, 1002.69, 1002.71, 1002.73, 1002.75, 1002.77, and 1002.79. The bill substantially amends sections 11.45, 20.50, 125.901, 216.133, 216.136, 402.3016, 411.01, 411.011, 411.226, 411.227, 1001.23, 1002.22, 1003.54, and 1007.23, Florida Statutes. The bill repeals sections 411.012 and 1008.21, Florida Statutes.

II. Present Situation:

Voluntary Universal Prekindergarten Education

In 2002, the electors of Florida approved Amendment No. 8 to the State Constitution, which requires the Legislature to establish, by the 2005 school year, a new early childhood development and education program (i.e., prekindergarten program) for every 4-year-old child in the state which is voluntary, high quality, free, and delivered according to professionally accepted standards:

> ARTICLE IX
> EDUCATION
>
> SECTION 1. Public education.—
>
> (b) Every four-year old child in Florida shall be provided by the State a high quality pre-kindergarten learning opportunity in the form of an early childhood development and education program which shall be voluntary, high quality, free, and delivered according to professionally accepted standards. An early childhood development and education program means an organized program designed to address and enhance each child's ability to make age appropriate progress in an appropriate range of settings in the development of language and cognitive capabilities and emotional, social, regulatory and moral capacities through education in basic skills and such other skills as the Legislature may determine to be appropriate.
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> (c) The early childhood education and development programs provided by reason of subparagraph (b) shall be implemented no later than the beginning of the 2005 school year through funds generated in addition to those used for existing education, health, and development programs. Existing education, health, and development programs are those funded by the State as of January 1, 2002 that provided for child or adult education, health care, or development.

Section 1(b) and (c), Art. IX of the State Constitution.

In response, the 2003 Legislature directed the State Board of Education to conduct a study and submit a report on the curriculum, design, and standards for this new prekindergarten program (s. 1, ch. 2003-93, L.O.F.; s. 411.012, F.S.). The state board established a Universal

Prekindergarten Education Advisory Council, which issued a report of its recommendations to the state board in October 2003.[1] The State Board of Education subsequently accepted the advisory council's report and issued a final report,[2] which was submitted to the Legislature in December 2003.[3] In addition, the Legislature directed the Office of Program Policy Analysis and Government Accountability (OPPAGA)[4] and the Auditor General[5] to conduct audits of the school readiness system and submit reports by January 15, 2004 (s. 2, ch. 2003-93, L.O.F.).[6]

House Bill 821

During the 2004 Regular Session, the Legislature enacted HB 821, which would have created the Voluntary Prekindergarten Education Program. The bill would also have abolished the Florida Partnership for School Readiness and transferred the partnership's duties to the Agency for Workforce Innovation, redesignated the school readiness coalitions as regional child development boards, and reduced the number of regional boards to 30 or fewer boards. The legislation would have replaced the school readiness uniform screening developed by the partnership with a statewide kindergarten screening adopted by the Department of Education. The legislation would have used this new screening as an accountability measure for the Voluntary Prekindergarten Education Program. In addition, the legislation would have enacted several reforms to the school readiness system which addressed many of the findings and recommendations of the OPPAGA and Auditor General reports. On July 9, 2004, the Governor vetoed HB 821.

State-Funded Early Childhood Education and Child Care Programs

Before 1999, Florida's state-funded early childhood education and child care programs were delivered through various independent programs, with administration of the programs divided principally between the Department of Education (DOE) and the Department of Children and Family Services (DCF):

- DOE formerly administered early childhood education programs, including the prekindergarten early intervention program; the Florida First Start Program; the migrant education program; and the federal Even Start Family Literacy Programs.

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[1] Florida State Board of Education, *Universal Prekindergarten Education Advisory Council, Report and Recommendations to the Florida State Board of Education* (Oct. 21, 2003).
[2] Florida State Board of Education, *A Study of the Curriculum, Design, and Standards for Florida's Voluntary Universal Prekindergarten Education Program* (Nov. 18, 2003).
[3] Letter from F. Philip Handy, Chairman, State Board of Education, to The Honorable Jim King, President, Florida Senate (Dec. 8, 2003).
[4] See OPPAGA, *School Readiness Coalitions' Progress Varies in Implementing the Program Over Two Years, Information Brief*, Report No. 03-75 (Dec. 2003); OPPAGA, *School Readiness Program's Potential is Beginning to be Realized, but is Hindered by Partnership Guidance Issues, Program Review*, Report No. 04-06 (Jan. 2004).
[5] See Auditor General, *School Readiness Program Administered by the Florida Partnership for School Readiness, the Florida School Readiness Coalitions, and the Florida Agency for Workforce Innovation, Operational Audit, July 1, 2000, through June 30, 2003, and Selected Actions taken through October 2003*, Report No. 2004-085 (Jan. 2004).
[6] See OPPAGA and Auditor General, *School Readiness Program Makes Progress, but Stronger Partnership Guidance and Internal Controls are Needed, Overview Report on Audits of the School Readiness Program* (Jan. 2004).

- DCF formerly administered the subsidized child care program, which funded child care services for at-risk and economically disadvantaged children younger than 13 years of age.

The Legislature prescribed separate requirements for each of these state-funded programs, including eligibility criteria (e.g., family income); minimum hours and days of service; appropriate types of settings (i.e., child care providers or school-based sites); staff-to-children ratios; qualifications for instructional staff (e.g., training, education, and professional credentials); and sliding fee scales.

School Readiness Programs

In 1999, the Legislature enacted the School Readiness Act (s. 411.01, F.S.), which consolidated each of these early childhood education and child care programs into one integrated program of school readiness services (ch. 99-357, L.O.F.). The act directed that school readiness programs would be administered by local school readiness coalitions at the county or multicounty level and would be coordinated by the Florida Partnership for School Readiness at the state level.

School readiness programs must contain, at a minimum, the following elements: developmentally appropriate curriculum, a character development program, an age-appropriate assessment of each child's development, a pretest and posttest administered as children enter and leave programs, an appropriate staff-to-children ratio, a healthful and safe environment, and a resource and referral network that assists parents in making an informed choice of child care providers (s. 411.01(5)(c)2., F.S.).

Before implementing its school readiness program, each school readiness coalition must develop and submit a school readiness plan to the Florida Partnership for School Readiness. The plan must include, among other things, a sliding fee scale, parental choice of settings and locations where services will be provided, eligibility priorities, qualifications for instructional staff, reimbursement rates, systems support and direct enhancement services, a business plan, strategies to meet the needs of unique populations, and performance standards and outcome measures (s. 411.01(5)(d)3. and 5., F.S.). The partnership may approve a coalition's plan, reject the plan, or approve the plan with conditions (s. 411.01(5)(d)2., F.S.).

Under current law, each coalition is generally required to serve at least 400 birth-to-kindergarten age children in its school readiness program (s. 411.01(5)(a)1., F.S.). As of March 2003, 50 school readiness coalitions, encompassing all 67 counties of the state, operated under approved plans.[7] Prior OPPAGA reports[8] found that smaller coalitions have faced greater challenges in administering school readiness programs than larger coalitions, principally due to a lack of economies of scale which are achieved by larger coalitions. In addition, the reports found that the partnership has experienced difficulty in coordinating 50 or more coalitions. House Bill 821 would have reduced the number of coalitions to 30 or fewer boards and would have required each board to serve at least 2,000 children in the school readiness program. Under coordination from the Florida Partnership for School Readiness, the coalitions have begun an initiative cited

[7] Florida Partnership for School Readiness, *2002 Annual Report: Ready to Reach for the Stars* 6, 15, & 17-18 (Mar. 2003).
[8] OPPAGA, *School Readiness Program's Potential Not Realized With Critical Issues Unresolved*, Report No. 02-07 (Jan. 2002).

as "Coalitions Coming Together," which provides for the consolidation of coalitions. This initiative has continued since the veto of HB 821.

School readiness programs are funded through a mixture of state and federal funds. The combined budget of the system is approximately $672.2 million, comprised of $379.7 million from the federal Child Care and Development Fund (CCDF) block grant; $112.5 million from the federal Temporary Assistance for Needy Families (TANF) block grant; $177.9 million from the state's General Revenue Fund; and $2.2 million from other funds, including $500,000 from the federal Social Services Block Grant.[9]

Regulation of Child Care Providers

The delivery system for school readiness programs is comprised of child care providers and of school-based sites operated by public and nonpublic schools (s. 411.01(5)(d)3.b., F.S.). Child care providers are distinguished by six types of settings: child care facilities, specialized child care facilities for the care of mildly ill children, large family child care homes, family day care homes, religious-exempt providers (see s. 402.316, F.S.), and informal providers.[10] Child care providers are generally subject to two parallel systems of regulatory requirements. Unless exempted, all child care providers other than informal providers are subject to state regulation (s. 402.312, F.S.), regardless of whether they receive state funds for school readiness programs. These state regulations generally govern the health, safety, sanitation, nutrition, physical surroundings, and child development needs of children receiving child care services; child care personnel requirements (e.g., training, professional credentials, and background screening); and staff-to-children ratios (see, e.g., ss. 402.305, 402.313, and 402.3131, F.S.). Child care providers receiving school readiness funds are also subject to the provider requirements established by the school readiness coalitions.

Except for certain facilities that are exempt from licensure (e.g., religious-exempt providers), all child care facilities in the state must be licensed (ss. 402.305 and 402.312, F.S.). Specialized child care facilities for the care of mildly ill children and large family child care homes also must be licensed (ss. 402.305(17), 402.312, and 402.3131, F.S.). Depending on local requirements, family day care homes either must be licensed or registered (ss. 402.312 and 402.313, F.S.). The licensure or registration of child care providers is administered by the Child Care Services Program Office of the Department of Children and Family Services or, in seven counties (Alachua, Brevard, Broward, Hillsborough, Palm Beach, Pinellas, and Sarasota), by local licensing agencies that have licensing standards meeting or exceeding the state's minimum standards (ss. 402.306 and 402.307, F.S.).

The Child Care Services Program Office also develops, approves, and coordinates training programs for child care personnel; develops and verifies professional credentials, including the state equivalent of the child development associate (CDA) and the credential for directors of child care facilities; and develops standards for the Gold Seal Quality Care program (s. 402.281, F.S.), which creates the basis for increased reimbursement rates in school readiness programs.[11]

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[9] Specific Appropriations 2122A-2122R, *General Appropriations Act for Fiscal Year 2004-2005,* ch. 2004-268, L.O.F.
[10] See Informal Child Care Provider, *infra* note 19.
[11] See, e.g., Specific Appropriation 2122F, General Appropriations Act for Fiscal Year 2004-2005, ch. 2004-268, L.O.F. ("Funds in Specific Appropriations 2122F, 2122G and 2122H, from the Child Care and Development Block Grant Trust

III. Effect of Proposed Changes:

Voluntary Prekindergarten Education Program

The bill creates the Voluntary Prekindergarten Education Program and specifies that the program shall take effect in each county at the beginning of the 2005-2006 school year. The program must be organized, designed, and delivered in accordance with s. 1(b) and (c), Art. IX of the State Constitution.[12]

Student Eligibility

The bill provides that each child residing in the state who will have attained 4 years of age on or before September 1 of the school year is eligible for the Pre-K program during that school year. A child remains eligible until the beginning of the school year for which the child is eligible for admission to kindergarten in a public school (i.e., the child attains the age of 5 years on or before September 1 of the school year[13]) or is admitted to kindergarten, whichever occurs first.

Parental Choice of Program Options

The bill allows the parent of each child eligible for the Pre-K program to choose among three distinct programs:

- School-year Pre-K program delivered by a private prekindergarten provider;
- Summer Pre-K program delivered by a public school or private prekindergarten provider; or
- School-year Pre-K program delivered by a public school, if offered by a school district that meets certain class-size reduction requirements.

The bill generally prohibits a parent from enrolling a child in more than one of these programs.[14] In order to enroll a child, the bill requires the child's parent to submit an application and a certified copy of the child's birth certificate or alternative proof of the child's age, as specified by the Agency for Workforce Innovation. The bill requires the application form to include a certification of the parent's choice of a private prekindergarten provider or public school and direction that payments for the Pre-K program be made to the provider or school.

The bill requires parents enrolling their children in the Pre-K program to submit the application to the early learning coalition.[15] The bill directs that applications for the Pre-K program shall be received by the coalitions through each coalition's "single point of entry" established under the

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Fund may be used to provide a rate differential or stipend to programs which reach the Gold Seal Quality Care designation. The rate differential shall not exceed 20 percent of the reimbursement rate.").

[12] See the text of Amendment No. 8 to the State Constitution, which relates to voluntary universal prekindergarten education, on page 3 of this staff analysis.

[13] See s. 1003.21(1)(a)2., F.S.

[14] The bill allows a child to withdraw from a Pre-K program and reenroll under certain good-cause and extreme-hardship exceptions. See the discussion, *infra* on page 19 of this staff analysis.

[15] The bill renames the current school readiness coalitions as "early learning coalitions."

school readiness system.[16] The bill also directs the coalitions to coordinate with the school districts in developing procedures for enrolling children in school-based Pre-K programs.

Informed Choice

The bill requires each early learning coalition to provide a parent enrolling a child in the Pre-K program with a profile of each private prekindergarten provider and public school in a format prescribed by the Agency for Workforce Innovation. The profile must include the provider's or school's:

- Services, curriculum, instructor credentials, and instructor-to-student ratio; and
- Kindergarten readiness rate[17] based upon the most recent available results of the statewide kindergarten screening.

School-Year Prekindergarten Program Delivered by Private Prekindergarten Providers

For parents choosing a school-year Pre-K program delivered by a private prekindergarten provider, the bill establishes a program based upon funding for 540 instructional hours. Except that the bill requires each private prekindergarten provider's school-year Pre-K program to comprise at least 540 instructional hours, the bill does not specify temporal limits for a provider's school-year Pre-K program; thus, a provider's program may encompass:

- Any numbers of hours per day and days per school year which total 540 or more instructional hours;
- Weekdays, weekends, or any combination of days; and
- Days throughout any month of the year.

The bill directs the program to be administered at the county or regional level by the early learning coalitions.

Eligibility of Private Prekindergarten Providers

The bill establishes eligibility criteria for private prekindergarten providers seeking to deliver the Pre-K program. To participate in the program, a provider must register with the early learning coalition and must be a:

- Licensed child care facility;
- Licensed family day care home;
- Licensed large family child care home;
- Nonpublic school exempt from licensure; or
- Faith-based child care provider exempt from licensure.

The bill omits from eligibility an unlicensed family day care home[18] or an informal child care provider.[19] In addition, to be eligible, a private prekindergarten provider must:

[16] See the discussion about the single point of entry, *infra* on page 27 of this staff analysis.
[17] See the discussion about kindergarten readiness rates, *infra* on pages 17-18 of this staff analysis.

- Be accredited by an accrediting association that is a member of the National Council for Private School Accreditation, the Commission on International and Trans-Regional Accreditation, or the Florida Association of Academic Nonpublic Schools;
- Hold a current Gold Seal Quality Care designation;[20] or
- Be licensed and demonstrate to the early learning coalition that the provider meets each of the requirements of the Pre-K program (e.g., prekindergarten instructor and director credentials, background screenings, minimum and maximum class sizes, and developmentally appropriate curriculum).

The bill allows a parent to enroll his or her child with any eligible private prekindergarten provider; however, the provider may determine whether to admit the child. The bill also prohibits an early learning coalition from limiting the number of students that a private prekindergarten provider may admit for enrollment in the Pre-K program, except that a private prekindergarten provider may not exceed any licensing requirements (e.g, staff-to-children ratio or square footage per child).

The bill requires a private prekindergarten provider to comply with federal antidiscrimination requirements (i.e., prohibiting discrimination based upon race, color, or national origin)[21] and prohibits a private prekindergarten provider from discriminating against a parent or child, including the refusal to admit a child for enrollment in the Pre-K program, in violation of these antidiscrimination requirements.

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[18] Under current law, family day care homes that are not licensed must register with the Department of Children and Family Services (s. 402.313(1)(a), F.S.). The bill does not include these registered family day care homes as eligible providers for the Pre-K program.

[19] The term "informal child care provider" is commonly used in the child care industry to refer to a relative or other caregiver who provides unregulated child care services. A similar term, "informal child care arrangement," is used in s. 411.01(5)(e)2. and (7)(a), F.S., but is not defined in current law.

[20] Under current law, the "Gold Seal Quality Care" designation is awarded to child care providers that are accredited by a nationally recognized accrediting association that has standards substantially meeting or exceeding the standards of the National Association for the Education of Young Children, the National Association of Family Child Care, and the National Early Childhood Program Accreditation Commission (s. 402.281(1), F.S.). The Department of Children and Family Services is authorized to develop Gold Seal Quality Care program standards for purposes of approving the accrediting associations (s. 402.281(2), F.S.). These standards encompass items such as minimum teacher-to-student ratios, maximum group sizes, and teacher qualifications. In addition to the three organizations cited in law, the department has approved the following accrediting associations: Association of Christian Schools International, Association of Christian Teachers and Schools, Accredited Professional Preschool Learning Environment, Council On Accreditation, Montessori School Accreditation Commission, National Early Childhood Program Accreditation, National School-Age Care Alliance, Southern Association of Colleges and Schools, United Methodist Association of Preschools, and National Accreditation Council for Early Childhood Professional Personnel and Programs. See Department of Children and Family Services, *Gold Seal Quality Care Program, at* http://www.dcf.state.fl.us/childcare/goldseal.shtml (last visited Dec. 10, 2004).

[21] The bill prohibits discrimination under 42 U.S.C. s. 2000d:

> No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

The bill also specifies that these antidiscrimination provisions apply to the Pre-K program, regardless of whether the program receives federal financial assistance.

Class Sizes

The bill requires each private prekindergarten provider delivering the school-year Pre-K program to maintain class sizes of at least 4 students and not more than 18 students.[22] In addition, the bill requires each private prekindergarten provider to provide appropriate adult supervision for students at all times.

Prekindergarten Instructor Credentials

The bill requires a private prekindergarten provider, as a condition of participating in the Pre-K program and receiving state funds, to employ for each Pre-K class at least one instructor with the following credentials:

- A child development associate (CDA) credential issued by the National Credentialing Program of the Council for Professional Recognition;[23]
- A credential approved by the Department of Children and Family Services[24] as being equivalent to or greater than the national CDA; or
- One of the following educational credentials:
  - Bachelor's or higher degree in early childhood education, prekindergarten or primary education, preschool education, or family and consumer science;
  - Bachelor's or higher degree in elementary education, if the instructor has been certified to teach children any age from birth through 6th grade, regardless of whether the educator certificate is current;
  - Associate's or higher degree in child development;
  - Associate's or higher degree in an unrelated field, at least 6 credit hours in early childhood education or child development, and at least 480 hours experience in teaching or providing child care services for children any age from birth through 8 years of age; or
  - Educational credential approved by the Department of Education as being equivalent to or greater than any of these educational credentials.

The bill requires each prekindergarten instructor to be of good moral character and prohibits a person from becoming an instructor if he or she is ineligible to teach in a public school because his or her educator certificate is suspended or revoked. The bill also requires each private prekindergarten provider to conduct background screenings of each prekindergarten instructor. These screenings must be conducted before hiring an instructor and at least once every 5 years using level 2 screening standards, which entail fingerprinting, statewide criminal and juvenile records checks through the Florida Department of Law Enforcement, and federal criminal records checks through the Federal Bureau of Investigation. The bill requires a provider to terminate (and prohibits a provider from hiring) a prekindergarten instructor who has been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any one of the 47 criminal offenses cited in s. 435.04(2), F.S.

[22] In accordance with s. 1(a)(1), Art. IX of the State Constitution, s. 1003.03(1)(a), F.S., specifies that the maximum number of students assigned to each teacher who is teaching core-curricula courses in public school classrooms for prekindergarten may not exceed 18 students.
[23] See http://www.cdacouncil.org/.
[24] The bill provides that the Department of Children and Family Services may adopt rules to provide criteria and procedures for approval of CDA equivalent credentials.

Emergent Literacy Training Courses

The bill requires each prekindergarten instructor to successfully complete an emergent literacy training course approved by the Department of Education (DOE). Instructors who possess educational credentials in lieu of a CDA or state-approved equivalent credential are exempt from this requirement.

The bill directs DOE to adopt, by April 1, 2005, minimum standards for emergent literacy training courses. Each course must consist of 5 clock hours and provide instruction in strategies and techniques to address the age-appropriate progress of Pre-K students in the development of emergent literacy skills, including oral communication, knowledge of print and letters, phonemic and phonological awareness, and vocabulary and comprehension development. Each course must also provide resources containing strategies to assist students with disabilities and other special needs.

The bill specifies that successful completion of an emergent literacy training course satisfies the Department of Children and Family Services' requirements for approved training in early literacy and language development, which is a continuing education requirement under current law for child care personnel of child care facilities (s. 402.305(2)(d)4., F.S.), family day care homes (s. 402.313(6), F.S.), and large family child care homes (s. 402.3131(5), F.S.).

The bill exempts a prekindergarten instructor from being required to complete an emergent literacy training course, if the instructor successfully completes the Department of Children and Family Services' requirements for approved training in early literacy and language development before the emergent literacy training courses are established by the DOE or April 1, 2005, whichever occurs later.

Prekindergarten Director Credential

The bill requires the prekindergarten director[25] of each private prekindergarten provider delivering the Pre-K program to obtain a prekindergarten director credential approved by the DOE before the beginning of the 2006-2007 school year. The department must adopt by July 1, 2006, minimum standards for the prekindergarten director credential. The credential must include requirements for education and onsite experience in the following:

- Training in professionally accepted standards for Pre-K programs, early learning, and strategies and techniques to address the age-appropriate progress of Pre-K students in attaining Pre-K performance standards adopted by DOE;
- Training in strategies to assist students with disabilities; and
- Training in program administration and operations, including management, organizational leadership, and financial and legal issues.

[25] The bill defines a "prekindergarten director" as an onsite person ultimately responsible for the overall operation of a private prekindergarten provider or, alternatively, of the provider's prekindergarten program, regardless of whether the person is the owner of the provider.

The bill provides that DOE's standards for the prekindergarten director credential must meet or exceed the Department of Children and Family Services' requirements for the child care facility director credential.[26] The bill specifies that successful completion of the prekindergarten director credential satisfies requirements for the child care facility director credential.

The bill provides that successful completion of the child care facility director credential before DOE establishes the prekindergarten director credential, or July 1, 2006, whichever occurs later, satisfies requirements for the prekindergarten director credential. The bill also directs DOE to award credit to persons successfully completing the child care facility director credential, to the maximum extent practicable, for those requirements of the credentials which are duplicative.

Summer Prekindergarten Program Delivered by Public Schools and Private Prekindergarten Providers

For parents choosing a summer Pre-K program delivered by a public school or prekindergarten provider, the bill establishes a program based upon funding for 300 instructional hours. Except that the bill requires each public school's and private prekindergarten provider's summer Pre-K program to comprise of at least 300 instructional hours and prohibits the program from beginning earlier than May 1 of the school year, the bill does not specify temporal limits for a school's or provider's summer Pre-K program; thus, a school's or provider's program may encompass:

- Any numbers of hours per day and days per summer (on or after May 1) which total 300 or more instructional hours; and
- Weekdays, weekends, or any combination of days.

The bill specifies that a school or provider may not deliver the summer Pre-K program for a child earlier than the summer immediately before the school year for which the child is eligible for admission to kindergarten in a public school.

The bill directs that the summer Pre-K program delivered by public schools shall be administered at the district level by the school districts and directs the summer Pre-K program delivered by private prekindergarten providers shall be administered at the county or regional level by the early learning coalitions.

The bill authorizes each school district to determine which public schools are eligible to deliver the summer Pre-K program and requires each private prekindergarten provider, in order to deliver the summer Pre-K program, to meet each requirement for a private prekindergarten provider delivering the school-year Pre-K program.[27]

The bill requires each public school and private prekindergarten provider delivering the summer Pre-K program to maintain class sizes of at least 4 students and not more than 10 students. In

[26] Under current law, the director of each licensed child care facility is required to possess a child care facility director credential, which, since January 1, 2004, is a required minimum standard for licensing (s. 402.305(2)(f), F.S.).
[27] See the discussion about prekindergarten instructor credentials and emergent literacy training courses, *supra* on pages 10-11 of this staff analysis.

addition, the bill requires each public school and private prekindergarten provider to provide appropriate adult supervision for students at all times.

The bill requires each public school and private prekindergarten provider to employ for each Pre-K class at least one instructor who:

- Is a certified teacher who holds a valid Florida educator certificate and has other qualifications required by the district school board; or
- Holds either a:
  - Bachelor's or higher degree in early childhood education, prekindergarten or primary education, preschool education, or family and consumer science; or
  - Bachelor's or higher degree in elementary education, if the instructor has been certified to teach children any age from birth through 6th grade, regardless of whether the educator certificate is current.

The bill requires each school district, in selecting instructional staff for the summer Pre-K program, to give priority to teachers who have experience or coursework in early childhood education. To participate in the program, each public school must register with the early learning coalition.

The bill requires each prekindergarten instructor to be of good moral character and prohibits a person from becoming an instructor if he or she is ineligible to teach in a public school because his or her educator certificate is suspended or revoked. The bill also requires each private prekindergarten provider to conduct background screenings of each prekindergarten instructor. These screenings must be conducted before hiring an instructor and at least once every 5 years using level 2 screening standards, which entail fingerprinting, statewide criminal and juvenile records checks through the Florida Department of Law Enforcement, and federal criminal records checks through the Federal Bureau of Investigation. The bill requires a provider to terminate (and prohibits a provider from hiring) a prekindergarten instructor who has been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any one of the 47 criminal offenses cited in s. 435.04(2), F.S.

The bill allows a parent to enroll his or her child with any eligible private prekindergarten provider; however, the provider may determine whether to admit the child. The bill also prohibits an early learning coalition from limiting the number of students that a private prekindergarten provider may admit for enrollment in the Pre-K program, except that a private prekindergarten provider may not exceed any licensing requirements (e.g, staff-to-children ratio or square footage per child).

The bill allows a parent to enroll his or her child with any eligible public school, subject to available space. The bill authorizes school districts to limit the number of students admitted to the program in a particular public school but requires school districts to provide for the admission of every eligible student enrolling in the summer Pre-K program.

The bill requires a private prekindergarten provider to comply with federal antidiscrimination requirements (i.e., prohibiting discrimination based upon race, color, or national origin)[28] and prohibits a private prekindergarten provider from discriminating against a parent or child, including the refusal to admit a child for enrollment in the Pre-K program, in violation of these antidiscrimination requirements.

School-Year Prekindergarten Program Delivered by Public Schools

For parents choosing a school-year Pre-K program delivered by a public school, if offered by an eligible school district, the bill establishes a program based upon funding for 540 instructional hours. Except that the bill requires each public school's school-year Pre-K program to comprise at least 540 instructional hours, the bill does not specify temporal limits for a school's school-year Pre-K program; thus, a school's program may encompass:

- Any numbers of hours per day and days per school year which total 540 instructional hours;
- Weekdays, weekends, or any combination of days; and
- Days throughout any month of the school year.

The bill specifies that a public school may only offer the school-year Pre-K program if the school's district school board certifies that the school district:

- Is in compliance with the schedules for class-size reduction;[29] and
- Has sufficient satisfactory educational facilities and capital outlay funds to achieve full compliance with the class-size reduction requirements in s. 1(a), Art. IX of the State Constitution.

The bill requires the Commissioner of Education to certify to the State Board of Education that the Department of Education has reviewed the school district's educational facilities, capital outlay funds, and projected student enrollment, and concurs with the school district's certification of compliance with class size requirements.

For eligible school districts that choose to offer the school-year Pre-K program, the bill directs that the program shall be administered at the district level by the school districts. The bill authorizes each eligible school district to determine which public schools are eligible to deliver the school-year Pre-K program. To participate in the school-year program, each public school must register with the early learning coalition.

The bill requires each public school delivering the school-year Pre-K program to maintain class sizes of at least 4 students and not more than 18 students.[30] In addition, the bill requires each school to provide appropriate adult supervision for students at all times.

The bill specifies that, for each prekindergarten class in a public school delivering the school-year Pre-K program, the school must have at least one instructor who meets the requirements

[28] See Antidiscrimination, *supra* note 21.
[29] See s. 1003.03, F.S.; s. 1(a), Art. IX of the State Constitution.
[30] See Class Size, *supra* note 22.

(e.g., at least a child development association or state-approved equivalent credential) for an instructor in the school-year Pre-K program delivered by a private prekindergarten provider.

The bill requires each prekindergarten instructor to be of good moral character and prohibits a person from becoming an instructor if he or she is ineligible to teach in a public school because his or her educator certificate is suspended or revoked. The bill also requires each private prekindergarten provider to conduct background screenings of each prekindergarten instructor. These screenings must be conducted before hiring an instructor and at least once every 5 years using level 2 screening standards, which entail fingerprinting, statewide criminal and juvenile records checks through the Florida Department of Law Enforcement, and federal criminal records checks through the Federal Bureau of Investigation. The bill requires a provider to terminate (and prohibits a provider from hiring) a prekindergarten instructor who has been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any one of the 47 criminal offenses cited in s. 435.04(2), F.S.

The bill allows a parent to enroll his or her child with any eligible public school, subject to available space. The bill authorizes school districts to limit the number of students admitted to the school-year Pre-K program in a particular public school, but, unlike the summer Pre-K program, the bill does not require school districts to provide for the admission of every eligible student enrolling in the school-year Pre-K program.

The bill requires a public school to comply with federal antidiscrimination requirements (i.e., prohibiting discrimination based upon race, color, or national origin)[31] and prohibits a school from discriminating against a parent or child, including the refusal to admit a child for enrollment in the Pre-K program, in violation of these antidiscrimination requirements.

Legislative Goals for Instructional Credentials

The bill expresses the intent of the Legislature that prekindergarten instructors will continue to improve their skills and preparation through education and training, so that the following aspirational goals will be achieved:

- ***By the 2010-2011 school year*** (5 years after the scheduled beginning of the Pre-K program):
  - Each Pre-K class will have at least one instructor who holds an associate's or higher degree in the field of early childhood education or child development; and
  - Each Pre-K class composed of 11 or more students, in addition to an instructor with an associate's or higher degree, will have a second instructor who has a child development associate (CDA) or state-approved equivalent credential.

- ***By the 2013-2014 school year*** (8 years after the scheduled beginning of the Pre-K program):
  - Each Pre-K class will have at least one instructor who holds a bachelor's or higher degree in the field of early childhood education or child development.

[31] See Antidiscrimination, *supra* note 21.

Articulation of Instructor Credentials toward a Postsecondary Degree

In education policy, the process of transferring academic credit for completed work from one educational institution to another is commonly cited as "articulation." Under current law, the State Board of Education must adopt rules establishing an articulation agreement that governs, among other things, the articulation of academic credit from secondary (i.e., high school) to postsecondary education and the admission of associate's degree graduates from community colleges to state universities (s. 1007.23(1), F.S.).

The bill requires that the articulation agreement guarantee the articulation of 9 credit hours toward a postsecondary degree in early childhood education for programs approved by the State Board of Education which:

- Award a child development associate (CDA) credential issued by the National Credentialing Program of the Council for Professional Recognition[32] or award a state-approved equivalent credential; and
- Include training in emergent literacy which meets or exceeds the minimum standards for training courses for instructors in the Pre-K program.

Curricula and Accountability

Performance Standards

The bill requires the Department of Education (DOE), by April 1, 2005, to adopt performance standards for the Pre K program. The standards must address the age-appropriate progress of students in the skills required in the State Constitution[33] and emergent literacy skills, including oral communication, knowledge of print and letters, phonemic and phonological awareness, and vocabulary and comprehension development. The bill specifies that each private prekindergarten provider and public school's curriculum, and the statewide kindergarten screening, must be designed to satisfy these Pre-K performance standards.

Curricula

The bill authorizes each private prekindergarten provider and public school to select or design its own curriculum for use in implementing the Pre-K program. The bill requires each provider and school's curriculum to be developmentally appropriate and to:

- Be designed to prepare a student for early literacy;
- Enhance the age-appropriate progress of students in attaining the DOE's adopted Pre-K performance standards; and

[32] See Council for Professional Recognition, *supra* note 23.
[33] See, e.g., s. 1(b), Art. IX of the State Constitution ("an organized program designed to address and enhance each child's ability to make age appropriate progress ... in the development of language and cognitive capabilities and emotional, social, regulatory and moral capacities through education in basic skills and such other skills as the Legislature may determine to be appropriate").

- Prepare students to be ready for kindergarten based upon the statewide kindergarten screening.

However, if a private prekindergarten provider or public school is placed on probation because the provider's or school's kindergarten readiness rate (i.e., percentage of the provider's or school's students assessed as ready for kindergarten) falls below the minimum satisfactory rate established by the State Board of Education for 2 consecutive years, the provider or school must use a curriculum approved by the DOE. The bill requires DOE to maintain a list of approved curricula for these providers and schools on probation.

Statewide Kindergarten Screening

The bill requires DOE to adopt a statewide kindergarten screening instrument that assesses the readiness of each student for kindergarten based upon the Pre-K performance standards adopted by the department. The bill provides for the statewide kindergarten screening to replace the current school readiness uniform screening.[34]

The bill requires each school district to administer the statewide screening to each kindergarten student in the school district within the first 30 school days of each school year. The bill also requires parents of children in the Pre-K program to submit their children for the statewide screening, regardless of whether the child is admitted to kindergarten in a public or private school. The bill directs the school districts to designate sites that would administer the statewide screening for students admitted to kindergarten in private schools.

The screening instruments must also incorporate mechanisms for recognizing potential variations in kindergarten readiness rates for children with disabilities.

Kindergarten Readiness Rates

The bill requires the State Board of Education to adopt procedures for the Department of Education to annually calculate a "kindergarten readiness rate" for each private prekindergarten provider and public school delivering the Pre-K program. The bill requires each kindergarten readiness rate to be expressed as the percentage of the provider's or school's students who are assessed by the statewide kindergarten screening as ready for kindergarten. The rates must be based exclusively on results from the statewide kindergarten screening and must not consider students who are not administered the screening.

The bill also requires the state board to periodically adopt a minimum kindergarten readiness rate. This minimum rate must reflect that a provider or school achieving this rate has satisfactorily delivered the Pre-K program. The bill prohibits the state board from adopting a minimum satisfactory rate that would cause more than 15 percent of the providers or schools in the state to fall below the minimum rate. Beginning with kindergarten readiness rates calculated for students completing the Pre-K program during the 2005-2006 school year, who are administered the statewide kindergarten screening during the 2006-2007 school year, the

[34] See s. 411.01(10), F.S.

following sanctions are imposed for a provider's or school's failure to meet the minimum satisfactory rate:

- If a private prekindergarten provider's or public school's kindergarten readiness rate falls below the minimum satisfactory rate, the bill directs the early learning coalition or school district to require the provider or school to implement an improvement plan approved by the early learning coalition or school district, as applicable.
- If a provider's or school's kindergarten readiness rate falls below the minimum satisfactory rate for 2 consecutive years, the bill specifies that the provider or school must be placed on probation and be required to take certain corrective actions, including the use of a DOE-approved curriculum. A provider or school that is placed on probation must continue the corrective actions, including the use of a DOE-approved curriculum until the provider or school meets the minimum satisfactory rate.
- If a provider or school remains on probation for 2 consecutive years and fails to achieve the minimum satisfactory kindergarten readiness rate, the bill directs the Agency for Workforce Innovation to require the early learning coalition (or directs DOE to require the school district) to remove the provider or school, as applicable, from eligibility to deliver the Pre-K program.

Discipline of Private Prekindergarten Providers and Public Schools

The bill requires each early learning coalition and school district to verify compliance by private prekindergarten providers or public schools, respectively, with the Pre-K program's requirements. The bill directs the Agency for Workforce Innovation to require an early learning coalition (or directs the Department of Education to require a school district) to remove a provider or school, as applicable, from eligibility to deliver the Pre-K program, if the provider or school engages in misconduct or fails or refuses to comply with program requirements.

Funding

The bill establishes a funding mechanism for the Pre-K program through which program funds are appropriated to the Department of Education, transferred at least once each quarter to the Agency for Workforce Innovation (AWI), and distributed by AWI to the early learning coalitions for payment to private prekindergarten providers and school districts.

Providers and school districts receive funding for the Pre-K program based on the number of instructional hours delivered to each student. The bill limits the number of instructional hours per student for which a provider or school district may request funding. This limit is cited as a "full-time equivalent (FTE) student" and is calculated as follows:

- School-year Pre-K program delivered by a private prekindergarten provider: 540 instructional hours.
- Summer Pre-K program delivered by a public school or private prekindergarten provider: 300 instructional hours.
- School-year Pre-K program delivered by a public school: 540 instructional hours.

The bill generally prohibits a student from being reported as more than one FTE. Thus, the bill in effect prohibits Pre-K program funding from supporting services for a student in excess of the specified limits.

The bill allows a child who has not completed more than 10 percent of the authorized hours in a Pre-K program to withdraw from the program for "good cause," reenroll in a Pre-K program, and receive a full FTE for the program in which the child is reenrolled. In addition, the bill allows a child who has not "substantially completed" a Pre-K program to withdraw from the program due to an "extreme hardship" that is beyond the child's or parent's control,[35] reenroll in a Pre-K program, and receive a full FTE for the program in which the child is reenrolled. The bill directs AWI to adopt criteria for using these good-cause and extreme-hardship exceptions and permits a child to reenroll in a Pre-K program only once using either of these exceptions.

The bill provides that the amount of funding per FTE student would be specified in the General Appropriations Act and would be equal per student, regardless of whether the student is enrolled in a school-year Pre-K program delivered by a private prekindergarten provider, a summer Pre-K program delivered by a public school or private prekindergarten provider, or a school-year Pre-K program delivered by a public school.

In order to adjust for variations in the cost of living from county-to-county across the state, distribution of public-school funding through the Florida Education Finance Program (FEFP) is provided by varying the base student allocation by county according to the county's district cost differential. [36] This cost differential is applied according to the Florida Price Level Index.[37]

To adjust for county price-level variations in the Pre-K program, each county's allocation per FTE student would be calculated annually by multiplying the base student allocation in the General Appropriations Act by the county's district cost differential. The bill requires that private prekindergarten providers and public schools be paid in accordance with the county's allocation per FTE student.

The bill specifies that, if enrollment in the Pre-K program during a fiscal year exceeds the estimated enrollment, thereby causing a shortfall in program funds, program funds appropriated for the subsequent fiscal year must be used first to fund the shortfall.

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[35] The bill specifies that an extreme hardship may only exist if the circumstances are beyond the "child's or parent's control." The bill would consequently allow an extreme hardship to exist if the circumstances are within either the child's control or the parent's control, but not if the circumstances are within both the parent's and child's control. If the Legislature intends for the bill to allow an extreme hardship to exist only if circumstances are beyond both the child's and the parent's control, the Legislature may wish to amend the bill to clarify this provision.

[36] The term "district cost differential" refers to an allocation methodology used to adjust statewide education funding based upon each county's relative price levels. See s. 1011.62(2), F.S.:

> The Commissioner of Education shall annually compute for each district the current year's district cost differential. The district cost differential shall be calculated by adding each district's price level index as published in the Florida Price Level Index for the most recent 3 years and dividing the resulting sum by 3. The result for each district shall be multiplied by 0.008 and to the resulting product shall be added 0.200; the sum thus obtained shall be the cost differential for that district for that year.

[37] See, e.g., Bureau of Economic and Business Research, University of Florida, *2003 Florida Price Level Index, at* http://www.bebr.ufl.edu/Publications/FPLI2003.pdf (last visited Dec. 10, 2004).

Advance Payments Based Upon Enrollment

The bill requires each early learning coalition to maintain, through the single point of entry,[38] a current database of the students enrolled in the Pre-K program for each county in the coalition's region.

The bill directs the Agency for Workforce Innovation (AWI) to adopt procedures for the payment of private prekindergarten providers and public schools for the Pre-K program. These procedures must provide for the advance payment of providers and schools based upon student enrollment in the program, the certification of student attendance, and the reconciliation of advance payments in accordance with the uniform attendance policy that the bill requires AWI to adopt.[39]

The procedures must also provide for the monthly distribution of funds by AWI to the early learning coalitions for payment by the coalitions to private prekindergarten providers and public schools. The bill requires the Department of Education, at least once each quarter, to transfer program funds appropriated for the Pre-K program to AWI for distribution to the early learning coalitions.

Attendance Policies and Reporting

The bill requires a parent enrolling his or her child in the Pre-K program to agree to compliance with the attendance policy of the respective private prekindergarten provider or district school board. Upon enrollment of a child, the provider or school must provide the child's parent with a copy of the applicable provider's or school district's attendance policy. The bill specifies that each provider's and district school board's attendance policy must require the parent to verify, each month, the student's attendance on the prior month's certified student attendance.

The bill requires a parent to submit a signed form verifying the student's attendance to the provider or school. In addition, the verification must include a certification, in substantially the following form, that the parent continues to choose the provider or school and directs that payments for the program be made to the provider or school:

[38] See the discussion about the single point of entry, *infra* on page 27 of this staff analysis.

[39] The bill requires the Agency for Workforce Innovation to adopt a uniform attendance policy to be used for funding purposes in Pre-K programs. The attendance policy must apply statewide, apply equally to all providers and schools, include a minimum attendance requirement, and specify that:

- A student who meets the minimum requirement receives full funding;
- A student who does not meet the minimum requirement receives partial funding, reduced pro rata based on the student's attendance; and
- A student who does not meet the minimum requirement may receive full funding if the student is absent for good cause as authorized in the uniform attendance policy.

VERIFICATION OF STUDENT'S ATTENDANCE
AND CERTIFICATION OF PARENTAL CHOICE

I, (Name of Parent), swear (or affirm) that my child, (Name of Student), attended the Voluntary Prekindergarten Education Program on the days listed above and certify that I continue to choose (Name of Provider or School) to deliver the program for my child and direct that program funds be paid to the provider or school for my child.

(Signature of Parent)
(Date)

The bill requires each provider or public school to keep each original signed form for at least 2 years and permit the early learning coalition to inspect the forms during normal business hours. The bill requires the early learning coalitions to review the parental verifications, in accordance with procedures adopted by the Agency for Workforce Innovation, using selective inspection techniques, including, but not limited to, random sampling.

Enforcing Attendance Policies

The bill authorizes a provider or school to dismiss a student who does not comply with the provider's or school district's attendance policy. A student dismissed for attendance violations is not removed from the Pre-K program and may continue in the program through reenrollment with another provider or school. However, a school district is not required to admit a student dismissed for attendance violations.

The bill also specifies that the uniform attendance policy adopted by the Agency for Workforce Innovation does not prohibit a provider or school from adopting and enforcing the provider's or school's attendance policy.[40]

Administrative Funding

The bill authorizes each early learning coalition to retain and expend no more than 5 percent of the program funds paid by the coalition to private prekindergarten providers and public schools for the Pre-K program. The bill requires coalitions to use these funds for administration of the Pre-K program, prohibits Pre-K funds from being used to administer other programs (e.g., school readiness programs), and directs the Agency for Workforce Innovation to require coalitions to minimize administrative expenditures.

Prohibited Fees and Charges

The bill prohibits a private prekindergarten provider or public school, except as otherwise expressly authorized by law, from:

- Requiring payment of a fee or charge for services provided for a child in the Pre-K program during a period reported for funding purposes; or

[40] See Uniform Attendance Policy, *supra* note 39.

- Requiring a child to enroll in, or requiring the payment of any fee or charge for, supplemental services as a condition of admitting a child in the Pre-K program.

Student Transportation

The bill specifies that a parent is responsible for the transportation of his or her child to and from the Pre-K program, regardless of whether the program is delivered by a private prekindergarten provider or a public school. The bill also allows a provider or school to use Pre-K program funding for transporting students to and from the program. The bill prohibits a school district from reporting Pre-K students for purposes of annual allocations to the district for student transportation to public school programs.[41]

Governance of Prekindergarten Program

The bill provides that the Pre-K program shall be administered at the local level by early learning coalitions and school districts. At the state level, the bill specifies that the Department of Education shall administer the educational accountability requirements of the Pre-K program and the Agency for Workforce Innovation shall administer the operational requirements of the program.

Department of Education – Educational Accountability Requirements

In addition to those duties assigned to the Department of Education (DOE) throughout the bill, the bill also requires the department to adopt procedures for its:

- Approval of prekindergarten director credentials and emergent literacy training courses;
- Certification of school districts that are eligible to deliver the school-year Pre-K program; and
- Administration of the statewide kindergarten screening and calculation of kindergarten readiness rates.

The bill directs the State Board of Education to adopt rules for those aspects of the Pre-K program assigned by the bill to DOE.

The bill prohibits the Department of Education, except as provided by law, from imposing requirements on a private prekindergarten provider that does not deliver the Pre-K program or receive state funds for the program.

Agency for Workforce Innovation – Operational Requirements

In addition to those duties assigned to the Agency for Workforce Innovation (AWI) throughout the bill, the bill also requires the agency to adopt procedures governing the administration of the Pre-K program by early learning coalitions and school districts for:

- Enrolling children in and determining the eligibility of children for the Pre-K program;

[41] See s. 1011.68, F.S.

- Providing parents with profiles of private prekindergarten providers and public schools;
- Registering providers and schools to deliver the program;
- Determining the eligibility of providers to deliver the program;
- Verifying the compliance of providers and schools and removing providers or schools from eligibility to deliver the program due to noncompliance or misconduct;
- Paying providers and schools;
- Documenting and certifying student enrollment and student attendance;
- Reconciling advance payments in accordance with the uniform attendance policy; and
- Reenrolling students dismissed by a provider or school for noncompliance with the provider's or school district's attendance policy.

For those procedures of the Pre-K program governing educational accountability requirements administered by early learning coalitions and school districts, the bill requires AWI to adopt the procedures in consultation with and subject to approval by DOE. These procedures include a coalition's or district's:

- Approval of improvement plans for private prekindergarten providers and public schools;
- Placement of a provider or school on probation and the requirement of corrective actions; and
- Removal of a provider or school from eligibility to deliver the Pre-K program due to the provider's or school's remaining on probation for more than 2 consecutive years.

Florida Early Learning Advisory Council

The bill creates the Florida Early Learning Advisory Council within the Agency for Workforce Innovation (AWI) for the purpose of submiting recommendations to the agency and the Department of Education on the state's early learning policy, including recommendations on the Pre-K and school readiness programs. The bill requires AWI to provide staff and administrative support for the advisory council. The bill specifies that the advisory council is composed of the following members:

- The chair of the advisory council, who shall be appointed by and serve at the pleasure of the Governor;
- The chair of each early learning coalition, each of whom is appointed by the Governor and who must meet the same qualifications as the private-sector business members of the coalition;[42]
- One member who shall be appointed by and serve at the pleasure of the President of the Senate; and
- One member who shall be appointed by and serve at the pleasure of the Speaker of the House of Representatives.

If the Agency for Workforce Innovation approves the organization of 30 or fewer early learning coalitions, the advisory council would consequently consist of 33 or fewer members. The bill specifies that the chair of the advisory council appointed by the Governor and the two members

[42] See Private-Sector Business Members, *infra* note 44.

appointed by the presiding officers of the Legislature must each have a background in early learning.

The advisory council is required to meet at least quarterly but may meet as often as necessary. Advisory council members are required to serve without compensation but would be reimbursed for per diem and travel expenses for attendance at council meetings. Each advisory council member would also be subject to the Code of Ethics for public officers and employees in part III of ch. 112, F.S., and would be governed by the sovereign immunity requirements in s. 768.28, F.S.

School Readiness System

The bill revises the governance structure of the school readiness system by abolishing the Florida Partnership for School Readiness and directing the Agency for Workforce Innovation (AWI) to govern state-level policy and provide statewide coordination of school readiness programs, with early learning coalitions administering the school readiness programs at the county or regional level.

The bill creates the Office of Early Learning within AWI to administer the school readiness system. The Director of Workforce Innovation would appoint a Deputy Director for Early Learning, who would direct the office and who would serve at the pleasure of the director.

Effective upon the bill becoming a law, the bill transfers to AWI the partnership's powers, duties, functions, rules, records, personnel, property, and unexpended balances of appropriations, allocations, and other funds by a type two transfer.[43]

The bill makes the following changes associated with AWI's assuming of the powers and duties of the Florida Partnership for School Readiness:

- The Governor may designate AWI as the lead agency for purposes of the Child Care and Development Fund (CCDF).
- AWI shall develop and adopt performance standards and outcome measures for school readiness programs. The bill also specifies that the performance measures for birth-to-3-year-old children must be integrated with the performance standards adopted by the Department of Education for the Pre-K program.
- AWI may adopt rules to administer the school readiness program.
- AWI may not impose requirements on a child care or early childhood education provider that does not deliver services under a school readiness program or receive state or federal funds under the School Readiness Act (s. 411.01, F.S.), except as provided by law.

[43] Section 20.06(2), F.S., defines a "type two transfer" as the:

> merging into another agency or department of an existing agency or department or a program, activity, or function thereof or, if certain identifiable units or subunits, programs, activities, or functions are removed from the existing agency or department, or are abolished, it is the merging into an agency or department of the existing agency or department with the certain identifiable units or subunits, programs, activities, or functions removed therefrom or abolished.

- AWI must identify best practices of early learning coalitions to improve the outcomes of school readiness programs.

Early Learning Coalitions

The bill revises the structure and composition of the local school readiness coalitions. Effective upon the bill becoming a law, school readiness coalitions are renamed as "early learning coalitions." All powers, duties, functions, rules, records, personnel, property, and unexpended balances of appropriations, allocations, and other funds of each school readiness coalition are not transferred but are retained by each coalition upon its renaming as an early learning coalition.

Effective April 1, 2005, the bill provides for a reduction of the number of early learning coalitions. AWI is directed to establish the minimum number of school readiness children to be served by each early learning coalition. The bill prohibits AWI from approving school readiness plans that do not comply with this minimum number. The minimum number must be uniform for each coalition, must permit 30 or fewer coalitions to be established, and must require each coalition to serve at least 2,000 children.

If a coalition cannot meet the minimum number established by AWI, the bill requires the coalition to merge with another county to form a multicounty coalition. However, the bill also allows AWI to authorize an early learning coalition to serve fewer children than the minimum number, if:

- The coalition demonstrates that merging with another county or multicounty region contiguous to the coalition would cause an extreme hardship;
- AWI has determined during the most recent annual review or through monitoring and performance evaluations that the coalition has substantially implemented its school readiness plan and substantially met the performance standards and outcome measures adopted by AWI; and
- The coalition demonstrates its ability to effectively and efficiently implement the Pre-K program.

The bill requires each early learning coalition to be organized in accordance with these provisions by April 1, 2005. By June 30, 2005, each school readiness coalition must complete the transfer to the successor early learning coalition, if applicable. If a coalition fails or refuses to merge as required, the bill authorizes AWI to dissolve the coalition and contract with a qualified entity to continue school readiness and Pre-K services until the coalition is reestablished through resubmission of school readiness plan and approval by AWI.

Membership

The bill revises the memberships of the early learning coalitions by requiring each coalition to be composed of at least 18 members but not more than 35 members, thereby increasing the maximum number under current law from 25 members (s. 411.01(5)(a)2., F.S.). The bill requires AWI to adopt standards that establish within this range the minimum and maximum number of members that may be appointed to an early learning coalition, including variations for multicounty coalitions.

The bill directs the Governor to appoint the chair and two other members of each early learning coalition, who must each meet the same qualifications as private-sector business members[44] appointed by the coalition. In addition, the bill authorizes the regional workforce board executive director to have his or her designee serve on the coalition. The bill adds a president of a community college or his or her designee to each coalition and clarifies that the head of a child care licensing agency, for purposes of membership on the coalition, means an agency head of a local licensing agency as defined in s. 402.302, F.S. The bill revises the representation of private child care providers to include family day care homes. The bill deletes from the memberships of the coalitions a member appointed by a Department of Children and Family Services (DCF) district administrator and a member appointed by a district school board, but retains on each coalition a DCF district administrator and a member appointed by a district superintendent of schools.

The bill adds to each coalition a representative of programs for children with disabilities under the federal Individuals with Disabilities Education Act, which the bill specifies shall be a nonvoting member. The bill removes the voting privileges of five members of each coalition by specifying that each of these members shall be a nonvoting member:

- District superintendent of schools;
- Central agency administrator;
- Head Start director;
- Representative of private child care providers, including family day care homes; and
- Representative of faith-based child care providers.

The bill also specifies that the chair or executive director of a children services council or juvenile welfare board shall be a nonvoting member if the council or board is the fiscal agent of the coalition or if the council or board contracts with and receives funds from the coalition.

Including the members appointed by the Governor, the bill requires that more than one third of the members of each early learning coalition must be private-sector business members who do not have, and who do not have a relative that has, a substantial financial interest in the design or delivery of the Pre-K program or the coalition's school readiness program.[45]

The bill declares that each member of an early learning coalition is subject to three sections in the Code of Ethics for public officers and employees: s. 112.313, F.S. (standards of conduct), s. 112.3135, F.S. (restriction on employment of relatives), and s. 112.3143, F.S. (voting conflicts). For purposes of provisions governing actions by public officers with voting conflicts (i.e., s. 112.3143(3)(a), F.S.), the bill specifies that each voting coalition member is a local public officer who must abstain from voting when a voting conflict exists.

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[44] The bill directs AWI to adopt criteria for the appointment of private-sector business members, which must include standards for determining whether a member or relative has a substantial financial interest in the design or delivery of the Pre-K program or the coalition's school readiness program.
[45] See Private-Sector Business Members, *supra* note 44.

The bill requires each early learning coalition to establish the terms for all appointed members of the coalition. The terms may not exceed 4 years and members may serve a maximum of two consecutive terms.

The bill also specifies that the quorum required for a coalition to conduct business shall be a majority of the coalition's voting membership.

Payments and Competitive Procurement

The bill requires each early learning coalition to adopt a payment schedule for the school readiness program. The payment schedule must be submitted for approval by AWI. The bill eliminates the requirement that a school readiness program must serve at least as many children as were served prior to implementation of the program. In lieu of this requirement, AWI is required to consider the access of eligible children to the school readiness program, as demonstrated in part by waiting lists, before approving proposed increases in payment rates submitted by an early learning coalition.

In addition, the bill requires early learning coalitions to use school readiness funds made available due to enrollment shifts from school readiness programs to the Pre-K program for increasing the number of children served in school readiness programs before increasing payment rates.

The bill requires each early learning coalition to comply with provisions governing competitive procurement (i.e., s. 287.057, F.S.) for the procurement of commodities or contractual services from state, federal, maintenance-of-effort, or matching funds provided for school readiness programs. The bill specifies that a contract for the purchase of commodities or contractual services, including any renewal of the original contract, may not exceed 3 years.

Single Point of Entry

The bill directs the Agency for Workforce Innovation (AWI) to establish a single statewide information system that integrates each early learning coalition's single point of entry, and the bill requires each coalition to use the statewide system. The bill defines a "single point of entry" to mean an integrated information system that:

- Allows a parent to enroll his or her child in the school readiness program at various locations throughout the county or multicounty region served by an early learning coalition;
- May allow a parent to enroll his or her child by telephone or through an Internet website; or
- Uses a unified waiting list to track eligible children waiting for enrollment in the school readiness program.

The bill specifies that applications for children enrolling in the Pre-K program must be submitted through the single point of entry.[46]

[46] See the discussion about enrollment of children in the Pre-K program, *supra* on pages 7 & 8 of this staff analysis.

School Readiness Programs

Performance Standards and Outcome Measures

The bill requires the Agency for Workforce Innovation (AWI) to adopt performance standards and outcome measures for school readiness programs. The performance standards must address the age-appropriate progress of children in the development of certain school readiness skills. The bill specifies that the performance standards for birth-to-3-year-old children in school readiness programs must be integrated into the performance standards adopted by the Department of Education for the Pre-K program.

The bill specifies that AWI must require each school readiness program to, at a minimum, enhance the age-appropriate progress of each child in the development of the school readiness skills, as measured by the performance standards and outcome measures adopted by AWI.

School Readiness Plans

The bill revises requirements for school readiness plans, including the following:

- Requiring the authorization of AWI before an early learning coalition implements a school readiness plan.
- Requiring AWI to adopt criteria for the approval of school readiness plans, which must be consistent with the performance standards and outcome measures adopted by AWI.
- Requiring the plan to demonstrate how the program would enhance the age-appropriate progress of the children in attaining the performance standards adopted by AWI.
- Requiring the plan to include the business organization of the early learning coalition, including the articles of incorporation and bylaws if the coalition is organized as a corporation. If the coalition is not organized as a corporation or other business entity, the plan must include the contract with a fiscal agent.
- Revising the fiscal agent contract requirements for an early learning coalition if the coalition is not legally organized as a corporation or other business entity to authorize an accountant, licensed under chapter 473, F.S., to operate as the fiscal agent.
- Requiring AWI to monitor and evaluate the performance of each early learning coalition in administering the school readiness program, implementing the coalition's school readiness plan, and administering the Pre-K program. These monitoring and performance evaluations must include onsite monitoring of each coalition's finances, management, operations, and programs.
- Authorizing AWI to dissolve an early learning coalition and contract with a qualified entity to continue school readiness and Pre-K services until the coalition is reestablished through resubmission of a school readiness plan and approval by AWI. AWI may only exercise this authority if AWI determines, during its annual review of plans or through monitoring and performance evaluations, that the early learning coalition has not substantially implemented its plan, has not substantially met the performance standards and outcome measures adopted by AWI, or has not effectively administered the school readiness or Pre-K program.
- Prohibiting the implementation of revised plans until AWI approves the revisions.
- Prohibiting an early learning coalition from being a provider of school readiness services.

School Readiness Priority

The bill revises and clarifies the school readiness program priority for eligible children. The bill adds to the priority groups those children determined to be at risk of abuse, neglect, or exploitation who are currently clients of the Family Safety Program Office of the Department of Children and Family Services but who are not otherwise given priority. In effect, the bill provides that priority be given for at-risk children younger than 3 years of age. In addition, the bill makes permanent requirements that require first priority for placement in school readiness programs be given to children who are from families receiving temporary cash assistance and subject to federal work requirements.

Funding

The bill provides that all state, federal, and required local maintenance-of-effort or matching funds provided to an early learning coalition shall be used in implementing the coalition's school readiness plan. The bill requires AWI to annually distribute, to the maximum extent practicable, all eligible funds provided under s. 411.01, F.S., as block grants to the early learning coalitions.

Auditor General

The bill specifically authorizes the Auditor General to conduct audits of the school readiness system and the early learning coalitions.

Early Learning Programs Estimating Conference

The bill renames the School Readiness Programs Estimating Conference as the Early Learning Programs Estimating Conference and provides the conference with additional estimating duties with respect to the number of children eligible for the Pre-K program. The bill directs the Agency for Workforce Innovation to provide, in a timely manner, information about the needs for the Pre-K program as requested by the estimating conference or individual conference principals.

Conforming Changes

The bill makes conforming changes throughout the Florida Statutes to reflect the new organizational structure of the Pre-K program and the school readiness system, and to delete obsolete provisions.

Repeals

The bill repeals two sections of the Florida Statutes:

- Section 411.012, F.S. (*Voluntary universal prekindergarten education program*) was enacted during the 2003 Regular Session and directed the State Board of Education to submit a report by October 1, 2003, to the Governor and presiding officers of the Legislature on the curriculum, design, and standards for the voluntary universal prekindergarten education

program. Since the bill creates the Voluntary Prekindergarten Education Program, this section is obsolete.

- Section 1008.21, F.S. (*School readiness uniform screening (kindergarten)*) specifies requirements for the Department of Education to implement the school readiness uniform screening developed by the Florida Partnership for School Readiness. Since the bill abolishes the partnership and replaces the school readiness uniform screening with a statewide kindergarten screening, this section is obsolete.[47]

Appropriations

The bill provides appropriations totaling approximately $11.8 million from the General Revenue Fund and authorizes 42.5 additional positions in three state agencies for the initial administrative and program development costs of the Pre-K program during the remaining months of the 2004-2005 fiscal year, which ends June 30, 2005. Of these $11.8 million appropriations, $5.4 million is provided for recurring costs and $6.4 million is provided for nonrecurring expenditures.

The bill provides these appropriations as "lump sums" without specific allocation into traditional budget categories. The bill directs the Executive Office of the Governor to notify the Legislative Budget Commission at least 3 working days before allocating these lump-appropriations into traditional budget categories.

Department of Education

The bill appropriates $2,065,399 and 17 additional positions to the Department of Education. Of this amount, $1,090,399 is recurring general revenue and $975,000 is nonrecurring general revenue. According to budget workpapers, these funds and positions are provided for:

- *Program design, implementation, and evaluation.*—Funds for the development of Pre-K student performance standards for kindergarten readiness, recommended curricula, and screening and assessment systems.
- *Professional development.*—Funds to create and approve emergent literacy courses, review and approve credentialing programs, review and approve child development associate (CDA) programs for articulation to postsecondary credit, and establish professional development goals and standards.
- *Accountability, compliance, and quality assurance.*—Funds to allow the Department of Education to collaborate with the Agency for Workforce Innovation and the Department of Children and Family Services on accountability activities, performance planning, and compliance monitoring.

Agency for Workforce Innovation

The bill appropriates $9,493,010 and 20 additional positions to the Agency for Workforce Innovation. Of this amount, $4,218,010 is recurring general revenue and $5,275,000 is nonrecurring general revenue. According to budget workpapers, these funds and positions are provided for:

[47] See the discussion about the statewide kindergarten screening, *supra* on page 17 of this staff analysis.

- *Program design, implementation, and evaluation.*—Funds for program design and oversight, local planning and implementation activities, initial purchase of curricula and materials, training for early learning coalitions, and statewide planning.
- *Accountability, compliance, and quality assurance.*—Funds for financial oversight activities, compliance monitoring systems, and corrective action enforcement.
- *Information technology.*—Funds for expansion and enhancement of school readiness data systems to implement the Pre-K program.
- *Indirect assessments and central administration.*—Funds for overhead costs within AWI, such as payroll, personnel, and executive direction.

The bill also specifies that $100,000 of nonrecurring general revenue is provided for an evaluation of the potential of using electronic technology to administer and maintain attendance information and provider payment processes for the Pre-K program. The bill directs AWI to submit a report of its recommendations to the Governor and presiding officers of the Legislature by September 1, 2006. The recommendations must include the recurring annual operating costs associated with the use of any electronic technology recommended in the report.

Department of Children and Family Services

The bill appropriates $220,230 and 5.5 positions to the Department of Children and Family Services. Of this amount, $80,193 is recurring general revenue and $140,037 is nonrecurring general revenue. According to budget workpapers, these funds and positions are provided for:

- *Quality assurance, program management, data system enhancement, and regulatory activities.*—Funds to cover increased costs associated with administration of the state-approved equivalent credentials to the child development associate (CDA).

Effective Date

The bill specifies that it is takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Student Eligibility

Section 1(b), Art. IX of the State Constitution requires every 4-year-old child in Florida to be provided a high-quality prekindergarten learning opportunity in the form of early childhood education program. The bill specifies that a child who will have attained 4 years of age on or before September 1 of the school year is eligible during that school year. The child remains eligible until the beginning of the school year for which the child is eligible for admission to kindergarten in a public school (i.e., the child attains the age of 5 years on or before September 1 of the school year) or is admitted to kindergarten, whichever occurs first. A student who is not 4 years old on September 1 of the school year may not actually receive a prekindergarten education until the student is 5 years old. Accordingly, based on a strict interpretation of the State Constitution, these eligibility requirements may be subject to challenge.

Faith-Based Providers

Section 3, Art. I of the State Constitution specifies that "[n]o revenue of the state or any political subdivision or agency thereof shall ever be taken from the public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution." The bill allows nonpublic schools and faith-based child care providers to deliver the Pre-K program and receive state funds under the program. Accordingly, to the extent that a nonpublic school or faith-based child care provider is determined to be a church, sect, religious denomination, or sectarian institution, inclusion of these schools and providers in the Pre-K program may be subject to challenge under this "no-aid" provision of the State Constitution.

In *Bush v. Holmes*,[48] an *en banc* panel of the First District Court of Appeal held that the Florida Opportunity Scholarship Program violated the no-aid provision of the State Constitution because the program uses state revenues to support sectarian schools. In its November 12, 2004, opinion, the district court certified this question to the Florida Supreme Court as a question of great public importance.

Also at issue in *Holmes* was whether the "no-aid" provision of the State Constitution violates the Free Exercise Clause[49] of the First Amendment to the federal constitution. The district court of appeal concluded that the no-aid provision does not offend the Free Exercise Clause. The matter is pending before the Florida Supreme Court and could ultimately be reviewed by the United States Supreme Court to interpret the Free Exercise Clause's impact on Florida's no-aid provision.

[48] Case Nos. 1D02-3160, 1D02-3163 and 1D02-3199 (Fla. 1st DCA Nov. 12, 2004).
[49] "Congress shall make no law respecting an establishment of religion, ***or prohibiting the free exercise thereof***." (Emphasis added.)

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill establishes the governance structure and basic program standards for the Voluntary Prekindergarten Education Program to be implemented beginning with the 2005-2006 school year. Parents who choose to enroll their children in the program would receive the benefits of this voluntary, free program. Private prekindergarten providers who choose to deliver the program would be eligible to receive state funds under the program and would be responsible for complying with the program requirements. The bill does not alter requirements for the licensure of child care providers under ss. 402.301-402.319, F.S., nor does the bill impose requirements upon providers who choose not to deliver the program.

C. Government Sector Impact:

The bill does not provide for implementation of the Voluntary Prekindergarten Education Program until the 2005-2006 school year. The bill provides appropriations totaling approximately $11.8 million from the General Revenue Fund and authorizes 42.5 additional positions in three state agencies (i.e., Department of Education, Agency for Workforce Innovation, and Department of Children and Family Services) for the initial administrative and program development costs of the Pre-K program during the remaining months of the 2004-2005 fiscal year.

The bill requires early learning coalitions to use school readiness funds made available due to enrollment shifts from school readiness programs to the Pre-K program for increasing the number of children served in school readiness programs before increasing payment rates. The bill also requires AWI, for fiscal year 2004-2005, to allocate school readiness funds among the early learning coalitions consistent with the funding allocations to the local school readiness coalitions for fiscal year 2003-2004.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.