

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Education Pre-K -12

BILL: CS/SB 820

INTRODUCER: Education Pre-K -12 Committee and Senator Grall

SUBJECT: Child Care and Early Learning Providers

DATE: January 18, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sabitsch	Bouck	ED	Fav/CS
2.	_____	_____	FT	_____
3.	_____	_____	AP	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 820 provides a tax exemption for preschools, various child care tax credits, modifies requirements for licensing of child care providers, and affects homeowners insurance for large family child care homes. Specifically, the bill:

- Modifies the existing exemptions from special assessments levied by municipalities to include preschools.
- Provides various tax credits for corporations and certain taxpayers who operate a child care facility or make contributions to child care facilities on behalf of employees for certain taxes including income tax, insurance premium tax, severance taxes on oil and gas production, alcoholic beverages tax, and sales tax paid by direct pay permit holders.
- Provides an exemption from licensing for certain entities operating a child care facility solely attended by its employees.
- Modifies requirements related to licensing of child care facilities by the Department of Children and Families including limitations on violations, implementation of abbreviated inspections, background screening, and personnel training.
- Removes annual notifications that child care facilities are required to provide parents regarding immunization and leaving children in cars.
- Requires county commissions to annually affirm continued services for locally managed licensing of child care facilities.
- Clarifies cancelation and coverage from residential property insurance for large family child care homes.

The bill takes effect on July 1, 2024, except where otherwise specified.

II. Present Situation:

The present situation is presented in Section III under the Effect of Proposed Changes.

III. Effect of Proposed Changes:

Special Assessments

Present Situation

There are 67 county governments and over 400 municipal governments. Municipalities levy and collect special assessments to fund capital improvements and municipal services including but not limited to: fire protection, emergency medical services, garbage disposal, sewer improvement, street improvement, and parking facilities. Small municipalities with a population fewer than 100 persons may use special assessments to fund special security and crime prevention services and facilities.¹

Property owned or occupied by a religious institution, a public or private elementary, middle, or high school, or by a governmentally financed, insured, or subsidized housing facility that is used primarily for persons who are elderly or disabled is exempt from any special assessments levied by a municipality.² No specific exemption exists for preschools. There are over 8,500 licensed preschools in Florida.³

Effect of Proposed Changes

The bill modifies s. 170.201, F.S., to add any public or private preschool to those properties that are exempt from special assessments levied by local governments and municipalities. The bill defines a preschool as a licensed child care facility serving children under five years of age.

Tax Collections and Credits

Present Situation

Early Learning Tax Incentive

Beginning in 1998, a corporate income taxpayer or insurance premium taxpayer was authorized to take a credit against their tax liability for costs associated with the establishment of a child care facility or for costs paid toward child care on behalf of their employees. The provision expired in 2008.⁴ Additionally, there is no tax credit program for any taxpayer of severance tax, sales and use tax, corporate income tax, insurance premium tax, or alcoholic beverage tax to receive credit for contributions made to a child care facility on behalf of employees.

¹ Section 170.201, F.S.

² Section 170.201(2), F.S.

³ Department of Children and Families, *Child Care Provider List, 11-1-2023*, available at <https://www.myflfamilies.com/sites/default/files/2023-11/Public%20-%202023-11-1%20-%20Statewide.pdf> (last visited Jan. 9, 2024).

⁴ Section 220.19, F.S. (2008).

Corporate Income Tax

Florida imposes a 5.5 percent tax on the taxable income of certain corporations and financial institutions doing business in Florida.⁵ Corporate income tax is remitted to the Department of Revenue (DOR) and distributed to General Revenue. Net collections of corporate income tax in Fiscal Year 2022-2023 were \$5.2 billion.⁶

Insurance Premium Tax

Florida imposes a 1.75 percent tax on most Florida insurance premiums.⁷ Insurance premium taxes are paid by insurance companies under ch. 624, F.S., and are remitted to the DOR. These revenues are distributed to General Revenue with additional distributions to the Insurance Regulatory Trust Fund, the Police & Firefighters Premium Tax Trust Fund, and the Emergency Management Preparedness & Assistance Trust Fund. Net collections of insurance premium taxes in Fiscal Year 2023-2023 were \$1.38 billion with distributions to General Revenue of \$1.05 billion.⁸

Severance Taxes on Oil and Gas Production

Oil and gas production severance taxes are imposed on persons who sever oil or gas in Florida for sale, transport, storage, profit, or commercial use.⁹ These taxes are remitted to the DOR and distributed to General Revenue with additional distributions to the Minerals Trust Fund and to the counties where production occurred. Receipts from the severance taxes on oil and gas are estimated to be \$3.2 million in Fiscal Year 2022-2023 with distributions to General Revenue of \$2.0 million.¹⁰

Sales Taxes Paid by Direct Pay Permit Holders

Section 212.183, F.S., authorizes the DOR to establish a process for the self-accrual of sales taxes due under ch. 212, F.S. The process involves the DOR granting a direct pay permit to a taxpayer, who then pays the taxes directly to the DOR.¹¹

Alcoholic Beverage Taxes

Florida imposes excise taxes on malt beverages, wines, and other beverages.¹² The taxes are due from manufacturers, distributors and vendors of malt beverages, and from manufacturers and

⁵ Sections 220.11(2) and 220.63(2), F.S.

⁶ Office of Economic and Demographic Research, Memo, July 31, 2023, *available at* http://edr.state.fl.us/Content/conferences/generalrevenue/CITNetCollections_FY2022-23.pdf (last visited Jan 11, 2024).

⁷ Section 624.509, F.S. (Different tax rates apply to wet marine and transportation insurance, self-insurance, and annuity premiums.)

⁸ Florida Revenue Estimating Conference, *2023 Florida Tax Handbook* (Oct. 2023), *available at* <http://edr.state.fl.us/content/revenues/reports/tax-handbook/taxhandbook2023.pdf> (last visited Jan. 11, 2024).

⁹ Sections 211.02(1) and 211.025, F.S.

¹⁰ *Supra* note 8.

¹¹ Section 212.183, F.S., and rule 12A-1.0911, F.A.C. Direct pay permit holders include: dealers who annually make purchases in excess of \$10 million per year in any county; dealers who annually purchase at least \$100,000 of tangible personal property, including maintenance and repairs for their own use; dealers who purchase promotional materials whose ultimate use is unknown at purchase; eligible air carriers, vessels, railroads, and motor vehicles engaged in interstate and foreign commerce; and dealers who lease realty from a number of independent property owners.

¹² Sections 563.05, 564.06, and 565.12, F.S.

distributors of wine, liquor, and other specified alcoholic beverages. Taxes are remitted to the Division of Alcoholic Beverages and Tobacco (Division) in the Department of Business and Professional Regulation (DBPR).

The Division is responsible for supervising the conduct, management, and operation of the manufacturing, packaging, distribution, and sale of all alcoholic beverages in Florida.¹³ Distributions of the excise taxes on alcoholic beverages are made to the General Revenue Fund, the Alcoholic Beverage and Tobacco Trust Fund, and Viticulture Trust Fund. Collections of alcoholic beverage taxes were \$317 million in Fiscal Year 2022-2023 with distributions to General Revenue of \$311 million.¹⁴

Effect of Proposed Changes

The bill creates s. 211.0254, F.S., to allow a child care tax credit against any tax due for oil and gas production under ss. 211.02 and 211.025, F.S., and together with a credit to scholarship funding organizations, for the New Worlds Reading Initiative, and for other charitable organizations, provides a maximum of up to 50 percent of the tax due on the return for which the credit is taken and provides priorities when other tax credits are being taken.

The bill creates s. 212.1835, F.S., to allow a child care tax credit against any tax imposed from a direct pay permit holder and provides certain requirements including filing and paying taxes electronically.

The bill modifies s. 220.19, F.S., to allow for child care tax credits permitted under s. 402.261, F.S., created by the bill and provides requirements and limitations regarding those tax credits. The bill removes provisions related to the carry forward of unused credits and repayment of child care facility start-up credits.

The bill creates s. 402.261, F.S., to allow a child care tax credit for up to 50 percent of the startup costs for a taxpayer who operates a child care facility for the taxpayer's employees. The bill provides definitions and restrictions. The bill adds provisions related to the carry forward of unused child care tax credits and repayment of child care facility start-up credits. The credit is against tax due under the following tax liabilities:

- Corporate income tax;
- Insurance premium tax;
- Severance taxes on oil and gas production;
- Alcoholic beverage tax on beer, wine, and spirits; or
- Self-accrued sales tax liability of direct pay permit holders.

The maximum amount of credit a taxpayer may be granted is based on the number of employees as follows:

- One-19 employees, maximum credit of \$1 million.
- Twenty-250 employees, maximum credit of \$500,000.
- Two hundred fifty one or more employees, maximum credit of \$250,000.

¹³ Section 561.02, F.S.

¹⁴ *Supra* note 8.

The bill allows for a taxpayer who operates an eligible child care facility for the taxpayer's employees a credit of up to \$300 per month for each eligible child enrolled in the facility. The bill also allows for a taxpayer who makes payment to and eligible child care facility in the name and for the benefit of an employee of the taxpayer is allowed a credit of 100 percent of the amount of payment up to \$3,600 per child. The maximum amount of credit a taxpayer may be granted for each such credit is based on the number of employees as follows:

- One-19 employees, maximum credit is \$50,000
- Twenty-250 employees, maximum credit is \$500,000
- Two hundred fifty one or more employees, maximum credit is \$1 million

The bill caps the maximum annual tax credit amount of \$5 million in each state fiscal year, beginning 2024-2025, and provides provisions for jointly operated eligible child care centers.

The bill allows taxpayers to make application for the tax credits beginning October 1, 2024, and outlines the requirements of the application process to be developed by the Department of Revenue (DOR), priority of applications, timelines for review of applications with notices of approval or denial, and provides the DOR with rulemaking authority.

The bill creates s. 561.1214, F.S., to allow child care tax credits beginning January 1, 2025, for any excise tax due for beer, wine, and liquor, except for excise taxes imposed on wine produced by manufactures in the state from products grown in the state. The credit allowed may not exceed 90 percent of the tax due on the return which the credit is taken.

The bill modifies s. 624.5107, F.S., to allow a child care tax credit beginning on or after January 1, 2025, for any excise tax on insurance premiums due under s. 624.509, F.S. and provides restrictions on the credit. The bill removes the provision allowing to carry forward the credit four up to five years and the provision for repayment of a credit for child care facility start-up cost if the facility does not operate for at least five years.

The bill modifies s. 624.509, F.S., to include child care tax credits under s. 624.5107, F.S. related to premium tax on insurers and provides an order in which deductions may be taken.

Finally, the bill provides the DOR with authority to adopt emergency rules to implement the bill and allow any emergency rules to be effective for six months following adoption and may be renewed. The provision is effective upon becoming law and expires on July 1, 2025.

Insurance

Present Situation

Homeowners' insurance is a specific type of property insurance. Homeowners' insurance covers damage or loss by theft and against perils which can include fire, and storm damage. It also may insure the owner for accidental injury or death for which the owner may be legally responsible. Mortgage lenders usually require homeowners' insurance as part of the mortgage terms.¹⁵

¹⁵ Florida Office of Insurance Regulation, *Homeowners' Insurance*, available at <https://floir.com/Sections/PandC/Homeowners/default.aspx> (last visited Jan. 11, 2024).

While homeowners' insurance can specifically refer to the insurance of a house, it also encompasses the insurance of other types of structures associated with personal residences, including tenants (renters) and condominium unit owners.¹⁶

Florida recognizes that family day care homes fulfill a vital role in providing child care and that residential property insurance coverage should not be canceled, denied, or fail to be renewed solely on the basis of the family day care services at the residence. The potential liability of residential property insurers is substantially increased by the operation of child care services on the premises. Contractual liabilities that arise in connection with the operation of the family day care home are excluded from residential property insurance policies unless they are specifically included in such coverage.¹⁷

In addition to family day care services, there are also over 400 large family day care services in Florida.¹⁸ A large family day care home is an occupied residence in which child care is regularly provided for children from at least two unrelated families where there is payment for the care provided and which has at least two full-time child care personnel on the premise during hours of operation.¹⁹ The insurance protections for family day care homes do not extend to large family day care homes.²⁰

Effect of Proposed Changes

The bill modifies s. 627.70161, F.S., to add specific language to include large family child care homes to existing law to prevent cancelation of the residential property insurance solely on the basis of offering those services at a residence, and to include “large family child care homes” in language stating the liabilities arising out of such services are excluded from property insurance policies specifically included in that coverage. The bill provides a definition of “large family child care home,” which is consistent with the definition in law.

Child Care Personnel

Present Situation

The child-care licensing program is a component of the services provided by the Department of Children and Families (DCF). The program is accountable for the statewide licensure of Florida's child-care facilities, specialized child-care facilities for the care of mildly ill children, large family child-care homes and licensure or registration of family day care homes. The purpose of the program is to ensure a healthy and safe environment for the children in child-care settings and to improve the quality of their care. The DCF ensures that licensing requirements are met through on-going inspections of child-care facilities and homes.²¹

¹⁶ *Id.*

¹⁷ Section 627.70161, F.S.

¹⁸ Department of Children and Families, *Child Care Provider List, 1-11-2024*, available at <https://www.myflfamilies.com/sites/default/files/2023-03/Public%20-%202023-3-1%20-%20Statewide.pdf> (last visited Jan. 11, 2024).

¹⁹ Section 402.302(11), F.S.

²⁰ Section 627.70161, F.S.

²¹ DCF, *About Child Care Licensure*, <https://www.myflfamilies.com/services/child-family/child-care/about-child-care-licensure> (last visited Jan 15, 2024).

Florida law provides for any county whose licensing standards meet or exceed the state minimum standards to designate by ordinance, a local licensing agency in the county. A county choosing not to administer its own child-care licensing programs, or whose minimum standards do not exceed state minimum standards, is licensed by DCF.²²

Currently, DCF child-care licensing staff are responsible for the inspection and licensure of child-care facilities and homes in 63 out of 67 counties. Four counties have elected to regulate licensing of child-care facilities and homes, those counties are Broward, Palm Beach, Pinellas, and Sarasota.²³

The DCF establishes minimum standards for child care personnel that include minimum requirements for good moral character based upon background screening.²⁴ This screening must be conducted using the level 2 standards for screening which include employment history checks, a search of criminal history records, sexual predator and sexual offender registries, and the child abuse and neglect registry of any state in which the current or prospective child care personnel resided during the preceding 5 years.²⁵

The DCF also establishes minimum training requirements for child care personnel. The DCF has adopted the Child Care Facility Handbook to describe these requirements in detail.²⁶ The minimum standards for training must ensure that all child care personnel take an approved 40-clock-hour introductory course in child care covering the following topic areas:²⁷

- State and local rules and regulations which govern child care.
- Health, safety, and nutrition.
- Identifying and reporting child abuse and neglect.
- Child development, including typical and atypical language, cognitive, motor, social, and self-help skills development.
- Observation of developmental behaviors, including using a checklist or other similar observation tools and techniques to determine the child's developmental age level.
- Specialized areas, including computer technology for professional and classroom use and early literacy and language development of children from birth to 5 years of age, as determined by the DCF, for owner-operators and child care personnel of a child care facility.
- Developmental disabilities, including autism spectrum disorder and Down syndrome, and early identification, use of available state and local resources, classroom integration, and positive behavioral supports for children with developmental disabilities.²⁸

²² Section 402.306, F.S.

²³ DCF, *About Child Care Licensure*, <https://www.myflfamilies.com/services/child-family/child-care/about-child-care-licensure> (last visited Jan 15, 2024).

²⁴ Section. 405.305(15), F.S.

²⁵ Section. 435.04, F.S.

²⁶ Florida Department of Children and Families, *Child Care Facility Handbook, October 2021*, available at https://www.myflfamilies.com/sites/default/files/2022-12/FacilityHandbook_0.pdf (last visited Jan. 11, 2024).

²⁷ *Id.*

²⁸ Section. 402.305, F.S.

The DCF is required to evaluate or contract for an evaluation to determine the status of and means to improve staff training requirements and testing procedures. The evaluation must be conducted every 2 years. The evaluation must include, but is not be limited to, determining:²⁹

- The availability, quality, scope, and sources of current staff training.
- The need for specialty training.
- Ways to increase in-service training.
- Ways to increase the accessibility, quality, and cost-effectiveness of current and proposed staff training.

The DCF also establishes minimum standards for:

- Sanitary and safety conditions, first aid treatment, emergency procedures, and pediatric cardiopulmonary resuscitation. The minimum standards must require that at least one staff person trained in cardiopulmonary resuscitation, as evidenced by current documentation of course completion, must be present at all times that children are present.³⁰
- Admissions and recordkeeping. Each year, each child care facility must provide parents of children enrolled in the facility detailed information regarding:
 - The causes, symptoms, and transmission of the influenza virus and the importance of immunizing their children.
 - The potential for a distracted adult to fail to drop off a child at the facility and instead leave the child in the adult's vehicle upon arrival at the adult's destination.³¹

Each child care facility is required to have a plan of activities which must ensure that each child care facility has and implements a written plan for the daily provision of varied activities and active and quiet play opportunities appropriate to the age of the child.³²

DCF is required to develop minimum standards for specialized child care facilities for the care of mildly ill children.³³

Effect of Proposed Changes

The bill amends s. 402.305, F.S., to modify minimum standards for child care facilities licensing standards. Specifically, the bill:

- Modifies the licensing standards to allow the Department of Children and Families (DCF) to create up to two classification levels for violations that relate directly to health and safety and prohibits any additional classification levels. The bill clarifies that violations of standards not directly related to health and safety can only be addressed through technical assistance.
- The bill requires the DCF to complete the background screening for personnel and provide results to the child care facility within five business days. Upon failure to do so, the bill requires the DCF to issue the current or prospective child care personnel a 45-day provisional hire status while all required information is being requested and the DCF is awaiting results. During the 45-day period, the current or prospective child care personnel must be under the direct supervision of a screened and trained staff member when in contact with children.

²⁹ Section. 402.305(2), F.S.

³⁰ Section. 402.305(7), F.S.

³¹ Section. 402.305(9), F.S.

³² Section. 402.305(13), F.S.

³³ Section. 402.305(17), F.S.

- Requires the 40-clock-hour introductory course in child care that must be taken by child care personnel include online training coursework that will meet minimum training standards for child care personnel and provided at no cost by the DCF.
- Clarifies that the child care personnel competency examination will be either in-person or online.
- Removes “an interdisciplinary approach to the study of children” as a requirement for the introductory course in child care.
- Limits periodic health examinations to child care facility drivers.
- Requires that the required training in cardiopulmonary resuscitation must be in-person training.
- Removes obsolete language related to pagers and beepers related to drop-in child care.
- Removes a requirement of child care facilities to provide parents with information related to flu shots in the months of August and September.
- Removes a requirement of child care facilities to provide parents during the months of April and September with information related to leaving children in a vehicle.
- Removes both the exception for health-related information for children served in a drop-in child care center as well as the required attestation by the child’s parent.
- Removes a requirement for a program to be implemented periodically by a child care facility to assist in preventing and avoiding physical and mental abuse.
- Removes a requirement for the DCF to develop standards for specialized child care facilities for the care of mildly ill children.

The bill modifies s. 402.306, F.S., regarding local licensing to require each county commission to affirm by majority vote annually the decision designate a local agency for child care licensing.

The bill modifies s. 402.3115, F.S., to include family day care homes and large family child care homes in the DCF’s plan to eliminate duplicative and unnecessary inspections of child care facilities and further defines that the DCF will implement the plan for a facility that meets the following conditions:

- Have been licensed for at least two consecutive years.
- Have not had a Class I violation for at least two consecutive years.
- Have not had more than three of the same Class 2 violations for at least two consecutive years.
- Have received at least two full onsite renewal inspections in the most recent two years.
- Do not have any current uncorrected violations.
- Do not have any open regulatory complaints or active child protective service investigations.

The bill requires the abbreviated inspection plan to be updated every five years to maintain and requires DCF to adopt rules and policies based on the recommendation required reporting.

The bill modifies s. 402.316, F.S. to provide an exemption from licensing, except for screening of personnel, for a taxpayer operated child care facility which is only attended by children who meet the definition of an eligible child under s. 402.261, F.S.

The bill modifies s. 1002.59, F.S. to update cross references.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

Section 5 of the bill provides limits on the allowable credits in a taxable year for a taxpayer operating an eligible childcare facility or making payments to a child care facility on behalf of an employee. For the provision limiting the maximum credits for a taxpayer operating a child care facility, the bill inverts the maximum credits to specify that the lower the number of employees the higher the exemption.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 170.201, 220.19, 402.305, 402.306, 402.3115, 402.316, 624.5107, 624.509, 627.70161, and 1002.59.

This bill creates the following sections of the Florida Statutes: 211.0254, 212.1835, 402.261, and 561.1214.

This bill creates an undesignated section of Florida law.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Education Pre-K - 12 Committee on January 17, 2024:

The committee substitute:

- Modifies the requirement under licensing standards for child care facilities that staff members must be trained in cardiopulmonary resuscitation to specify that the training must be in-person.
- Clarifies that the bill exempts from certain child care licensure provisions a child care facility that provides child care to eligible children defined in the bill.

- B. **Amendments:**

None.