

- SUBJECT:** Regulation of certain employer-based day-care facilities
- COMMITTEE:** Human Services — committee substitute recommended
- VOTE:** 7 ayes — Rose, S. King, J. Davis, Eissler, Hughes, Naishtat, Pierson  
0 nays  
2 absent — Herrero, Parker
- WITNESSES:** For — Michele Auteurieth Brown, Guerra DeBerry Coody  
Against — None
- BACKGROUND:** Human Resources Code, ch. 42 requires licensing of child-care facilities, with limited exceptions, that provide child-care assessments, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility.
- DIGEST:** CSHB 1385 would provide permits and regulation for employer-based day-cares. Employer-based day-cares would be day-cares operated by an employer with less than 50 full time employees to provide care to not more than 12 of the employees' children. The care facility would be located on the employer's premises.
- An employer would have to obtain a permit to operate an employer-based day-care unless the person already had a child-care facility license. Employers meeting the criteria for employer-based day-cares would not have to obtain a child-care facility license.
- Within 30 days of an employer's submitting an application to the Department of Family and Protective Services (DFPS) for an employer-based day-care permit, DFPS would have to process the application, including conducting an initial facility inspection and background and criminal history checks on each prospective caregiver. Background and criminal history checks also would be required every 24 months for the day-care director, caregivers, and any person 14 years of age or older who would routinely stay or work at the facility. DFPS would have to have an

abbreviated application form and process for the employer to convert a child-care facility license to an employer-based day-care permit. DFPS could charge a reasonable administrative fee to cover the cost of application processing and criminal background and history checks.

An employer-based day-care facility only could provide care to a child whose parent or guardian was an employee working within the same building in which the facility was located and was away from the building for no more than a limited time during the day. The day-care would maintain a caregiver-to-child ratio of at least one caregiver to every four children. Caregivers would have to be at least 18 and have graduated high school or its equivalent, received training as required for a licensed day-care center, and would have any DFPS required credential.

An employer-based day-care would have the same incident and violation reporting requirements as those defined for a licensed child-care facility. If DFPS received a complaint or report of abuse or neglect in a day-care, DFPS could perform an inspection. Based on the findings, DFPS could require corrective action and conduct follow up inspections to ensure continued compliance. DFPS could charge a reasonable fee for monitoring corrective action plans.

DFPS could suspend, deny, or revoke an employer-based day-care permit if a facility was non-compliant. The department could subject the facility to an emergency permit suspension for the same reasons as a suspension could be issued for a licensed child-care facility.

The provisions of CSHB 1385 would expire on September 1, 2009 and a child care facility acting under an employer-based day-care permit would have to become a licensed child-care facility to continue operating.

The bill would take effect September 1, 2007.

**SUPPORTERS  
SAY:**

CSHB 1385 would provide an alternative to full child-care licensing for a facility that provided day-care only for the employees of a small employer. Such facilities are the ideal child-care alternative for parents that have to work, because the parent has immediate access to monitor the care of his or her children. This added parental oversight decreases the need for more DFPS oversight via full child-care facility licensing. On-site child-care also benefits the employer through reduced absenteeism and tardiness and provides a benefit that attracts new employees.

This alternative would bring more employer-based child-care facilities under the regulation of DFPS because there are countless small businesses that currently operate unregistered, informal day-cares for a small number of employees. These facilities would be more likely to bring themselves under DFPS regulation if they had this less burdensome permitting alternative.

The expiration date of September 1, 2009, would provide a safeguard should there be issues identified with the employer-based day-care permitting process, the permit provisions would expire, and facilities could be subjected to full child-care facility licensing.

**OPPONENTS  
SAY:**

CSHB 1385 would provide a positive alternative to child-care facility licensing for small employers, yet the bill should not expire on September 1, 2009. The bill would provide adequate protections for children through required background checks and the inspection process. With these safeguards in place, the bill should not be subjected to the risk that the next Legislature may fail to approve legislation to perpetuate permitting for employer-based day-cares.