

SUBJECT: Changing small employer definition for employer-based day-care facilities

COMMITTEE: Human Services — favorable, without amendment

VOTE: 7 ayes — Rose, Herrero, Darby, Hernandez, Legler, Naishtat, Walle
0 nays
2 absent — Elkins, Hughes

WITNESSES: For — (*Registered, but did not testify:* Tess Coody, Parents Supporting HB 415, Guerra DeBerry Coody; Kandice Sanaie, Texas Association of Business)

Against — (*Registered, but did not testify:* Brenda Schultz, Texas Licensed Child Care Association)

BACKGROUND: Human Resources Code, ch. 42 generally requires licensing of child-care facilities. The 80th Legislature in 2007 enacted HB 1385 by Villarreal, which amended the Human Resources Code by adding subch. F to provide for the establishment and regulation of employer-based day-care facilities.

Small businesses with less than 50 employees may obtain a permit to provide on-site child care for no more than 12 children of their employees. Businesses that receive a permit do not have to be licensed by the Department of Family and Protective Services (DFPS).

The employer-based on-site day-care permit process requires:

- initial DFPS inspection of the facility;
- criminal background checks of all employees;
- 4:1 child to caregiver ratio or less;
- limiting care to no more than 12 children ;
- caregivers to complete the same training as required of traditional licensed day-care centers;
- caregivers to have a Child Development associate degree or Certified Child Care Professional credential or equivalent;

- parents to work in the same building in which the child care is located and be physically accessible to the child;
- parents to not be away from the building for more than four hours in a day or 10 hours in a week;
- the on-site center be subject to the same reporting requirements as a traditional licensed child care facility; and
- the on-site center be subject to the same DFPS inspection or investigation if a complaint is made.

DIGEST: HB 415 would amend Human Resource Code, sec. 42.151(2) to increase from 50 to 100 the threshold number of full-time employees for a small employer to qualify for an employer-based day-care facility permit in lieu of child-care facility license.

The bill would take effect September 1, 2009.

SUPPORTERS SAY: HB 415 would expand eligibility for the employer-based child-care program by increasing from 50 to 100 employees a business may have to obtain a permit. This change would enable more businesses to offer this invaluable service to employees and their families without having to obtain a full-scale child-care facility license.

The statutory requirements for an on-site child-care permit, such as a low child-to-adult ratio, a low limit on total number of children served, and the required professional certifications of caregivers, ensure that quality care is provided to the children in these facilities and, in some instances, are higher standards than those required for licensed child-care facilities. However, the Legislature established a different regulatory framework for employer-based programs, recognizing that some requirements applicable to licensed facilities, such as on-going monitoring, were not necessary for on-site facilities, given the different risk profile when a parent is just down the hall from the child. Therefore, the exemption from licensing provided by the permit process makes the programs feasible without sacrificing quality and safety.

HB 415 simply would make it possible for more parents to balance the demands of work and family by remaining both physically and emotionally close to their children while at work.

OPPONENTS
SAY:

By increasing the allowable number of employees of a small business from 50 to 100, HB 415 would increase the number of unlicensed child care facilities. Employer-based child-care facilities are exempt from licensure and only have to obtain a permit. Licensure helps to ensure the health and safety of children. Licensed child care facilities undergo regular inspections and checks by the Department of Family Protective Services (DFPS). Employer-based child-care facilities have one initial DFPS inspection and none further unless DFPS receives a complaint. Since these facilities are in the workplace, employees may be hesitant to file a complaint against their employer for fear of repercussions.

The lack of ongoing monitoring of these on-site facilities already is a weakness of the existing permit program. Monitoring ensures that quality remains high and that children are safe. Making more businesses eligible to provide unlicensed care could put more children at risk.