

BILL ANALYSIS

Senate Research Center

H.B. 2959
By: Paxton (Zaffirini)
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Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

In the early 1990s, the idea of a tiered rating system for those child care facilities participating in the state's subsidy program was conceived. The Texas Legislature enacted a designated vendor program for child care facilities that chose to voluntarily exceed the state's licensing requirements. In an effort to reward child care facilities that exceeded the minimum standards, the 76th Texas Legislature, in 1999, passed legislation requiring local workforce boards to make increased payments of at least five percent to those facilities achieving the designated vendor certification known as the Texas Rising Star Certification. These higher rates reduce the funding available to provide child care to children in low-income, working families.

In 2001, specific money for quality activities such as the designated vendor program was diverted away from the Texas Workforce Commission to the Texas Department of Protective and Regulatory Services to pay for child care licensing and monitoring activities of all child care facilities.

Currently, 12 percent of children in regulated child care in Texas are funded through the Texas Workforce Commission (TWC). In FY 2004, the local boards purchased child care for an average of 111,600 children per day and maintained a waiting list for about 31,000 children. Child care purchased by TWC is a valuable economic development tool for families on cash welfare assistance and for the working poor.

With the state's tight budget situation in recent years, TWC froze payment rates to all child care facilities serving subsidized children in January of 2003. Yet statute still mandates that the reimbursement rate to Texas Rising Star facilities remain five percent above the rate for other licensed facilities. This designated vendor program has become an unfunded mandate which lowers the number of low-income working families who can receive child care and can prevent families on the waiting list from being served.

H.B. 2959 repeals the current tiered reimbursement rate for child care facilities achieving the Texas Rising Star/designated vendor certification. The repeal of the designated vendor certification still allows local boards to continue paying graduated reimbursement rates if they so choose. Because the legislature no longer appropriates funds to TWC for quality activities, this bill also repeals the unfunded requirement that local boards spend dedicated quality funds to assist child care facilities in achieving the designated vendor certification.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 2 (Section 42.062, Human Resources Code) of this bill.

SECTION BY SECTION ANALYSIS

[While the statutory reference in this bill is to the Department of Protective and Regulatory Services, the following amendments affect the Department of Family and Protective Services, as the successor agency to the Department of Protective and Regulatory Services.]

SECTION 1. Amends Sections 2308.315 and 2308.316, Government Code, as follows:

Sec. 2308.315. REIMBURSEMENT RATES FOR CHILD CARE. Authorizes, rather than requires, each local workforce development board (board) to establish graduated reimbursement rates for child care based on the Texas Workforce Commission's (TWC) designated vendor program. Makes a conforming change.

Sec. 2308.316. FUNDING OF COMPETITIVE PROCUREMENT PROCESS FOR INFANT AND EARLY CHILDHOOD CHILD CARE. Authorizes, rather than requires, each board to allocate a portion of the board's federal child care development funds dedicated to quality improvement activities to a competitive procurement process for a system for quality child care for children under four years of age that encourages child care providers to voluntarily meet the criteria of TWC's designated vendor program or national accreditation. Makes a conforming change.

SECTION 2. Amends Subchapter C, Chapter 42, Human Resources Code, by adding Sections 42.061 and 42.062, as follows:

Sec. 42.061. USE OF CERTAIN DEDICATED CHILD-CARE FUNDS. Requires TWC, unless otherwise required by federal law and notwithstanding any other state law, to ensure that, if the state is required to dedicate more than four percent of the amount of federal child-care development funds for the purposes provided by 42 U.S.C. Section 9858e, the additional quality money required will be used to establish and implement the grant program for quality improvement activities under Section 42.062. Requires TWC to enter into a specific memorandum of understanding with the Department of Protective and Regulatory Services (department).

Sec. 42.062. QUALITY IMPROVEMENT ACTIVITIES FOR CHILD-CARE SERVICES. (a) Requires the executive commissioner of the Health and Human Services Commission (executive commissioner), by rule, subject to the availability of funds under Section 42.061 or from another source, to establish a program under which the department awards grants to child-care providers and community-based organizations for use in providing quality improvement activities to improve the quality and availability of child-care services.

(b) Requires the executive commissioner by rule to prescribe eligibility criteria for receipt of a grant under the program.

(c) Requires the executive commissioner, in developing the program under this section, to adopt a list of quality improvement activities for which a provider or organization is eligible to receive funding through the program. Sets forth requirements for the list of activities.

(d) Requires the department, to the extent allowed by federal law, to use federal child-care development funds transferred under Section 42.061 for the purposes of the program. Authorizes the department to use other available funds for the purposes of the program.

(e) Requires the executive commissioner, in developing the program, to ensure that the department administers the program in a manner that allows local providers and organizations to choose which of the quality improvement activities described by Subsection (c) the provider or organization wants to provide under the program.

(f) Requires the department, in awarding grants under the program, to give priority to quality improvement activities for programs that serve infants and toddlers younger than three years of age.

(g) Requires the department to submit to the legislature an annual report regarding the operation of the program during the preceding year. Sets forth minimum requirements for information to be included in the report.

SECTION 3. Requires the executive commissioner, as soon as practicable after the effective date of this Act, to adopt rules necessary for the implementation of Section 42.062, Human Resources Code, as added by this Act.

SECTION 4. Effective date: September 1, 2005.