

- SUBJECT:** Regulating school-based child-care facilities
- COMMITTEE:** Human Services — committee substitute recommended
- VOTE:** 5 ayes — Raymond, Fallon, Sanford, Scott Turner, Zerwas
2 nays — Naishtat, Rose
1 absent — Klick
1 present not voting — N. Gonzalez
- WITNESSES:** For — David Fincher, National Child Care Coalition; Wendy Frederick; Lonnie Hutson and Trung Nguyen, Kids R Kids Private Preschools; Jim Smith; (*Registered, but did not testify:* Darold Frederick, We4freds, Inc.; Eileen Garcia, Texans Care for Children; Gary Hadley, Kids R Kids Carrolton; Madeline Nguyen, Kids R Kids Private Preschools; Judith Parken, League of Women Voters of Texas; Brenda Schultz, Texas Licensed Child Care Association; and 26 others)

Against — Charles Evans, Texas Association of Non-Public Schools; Margaret McGettrick, Texas Catholic Conference; (*Registered, but did not testify:* Savannah Gonzales, Archdiocese of Galveston-Houston; Casey McCreary, Texas Association of School Administrators; Bill McGee, Hill Country Christian School of Austin and Texas Association of Non-Public Schools; Julie Shields, Texas Association of School Boards; and eight others)

On — Michele Adams, Department of Family and Protective Services; (*Registered, but did not testify:* Howard Morrison, Texas Education Agency)
- BACKGROUND:** Human Resources Code, sec. 42.041(a) requires that a child-care facility obtain a license from the Department of Family and Protective Services (DFPS).

Sec. 42.041(b)(7) exempts a before-school or after-school program operated directly by an educational facility accredited by the Texas Education Agency (TEA), the Southern Association of Colleges and

Schools, or an accreditation body that is a member of the Texas Private School Accreditation Commission. It also exempts a before-school or after-school program operated by an outside entity under contract with the educational facility if one of these accreditation bodies has approved the program's curriculum.

DIGEST:

CSHB 743 would modify the license requirements for before-school and after-school programs by:

- removing the DFPS license exemption from a program operated by an outside entity under contract with an educational facility;
- adding a license exemption for private educational facilities directly operating before-school or after-school programs; and
- adding a license exemption for a before-school or after-school, child care or other extended day activity directly operated by a public school without charge.

DFPS would increase the license fee to each child-care facility by increasing to \$2 from \$1 the amount charged for each child the facility is permitted to serve.

The bill would take effect September 1, 2013.

**SUPPORTERS
SAY:**

CSHB 743 would improve the safety of children in before- and after-school programs. Currently children in daycare programs at school are not regulated by either TEA or DFPS, which creates a gap of unregulated care. For example, the workers do not necessarily have to undergo background checks, and the staff-to-child ratio may be indeterminate. Children need to be in facilities that meet a minimum level of care, and DFPS licensing would ensure they received that.

Critics' concerns about increased costs to facilities and families are overstated. While costs might increase to some degree, this would be justified by the improved safety of children in the state. Moreover, public schools would have the option of avoiding the DFPS licensing process by no longer charging a fee. If the fee provided relatively little total revenue in the first place, the programs might continue to be financially sustainable without it.

CSHB 743 would boost state revenue. According to the Legislative Budget Board, the modest increase in licensing fees would generate a

positive impact of \$763,434 in fiscal 2014-15.

OPPONENTS
SAY:

CSHB 743 would restrict low-income children from accessing before- and after-school public day care programs, pushing many of them into less safe, less stable arrangements for large parts of the day.

If schools that are currently licensed by TEA have to meet additional state requirements, such as by reconfiguring playgrounds and bathrooms, in all likelihood many districts would no longer allow these programs on their campuses. In those that did, the discounted fees many programs use to meet the needs of their communities would not cover the cost of retrofitting buildings and hiring staff. Along with the increased license fees, these costs would become a substantial barrier to program access, and the families using the public school's day care program, who already cannot afford private child care, would be forced to seek out lower-quality after-school programs or informal child supervision.

CSHB 743 is a dangerous misapplication of an agencies' rulemaking authority. There is no reason that TEA's standards, which are sufficient during the day, are insufficient in the morning or afternoon. Texas public schools are not for-profit entities, while DFPS' standards are more suited to private contexts.

NOTES:

According to the fiscal note, the bill would result in a positive impact of about \$762,000 to general revenue related funds in fiscal 2014-15. This would result from the difference in the amount collected under the increased DFPS licensing fees and the expenses the department would incur in the process of licensing additional before- and after-school programs.