

CHAPTER NO. 312

HOUSE BILL NO. 2333

By Representatives McMillan, Winningham, Litz, Coleman, Yokley, Sontany, Cobb, Fitzhugh, Hackworth, Hood, Bone, Curtiss, Davidson, McDonald, Fowlkes, Odom, Towns, Langster, Sherry Jones, Moore, Pruitt, Briley, John DeBerry, Harmon, Miller, Marrero, Larry Turner, Pinion, Henri Brooks, Bowers, Tidwell, Shepard, Hargrove, Ulysses Jones, Lois DeBerry, Cooper, Armstrong, Rinks, Favors, Fraley, Tindell, West, Brown, Ferguson and Mr. Speaker Naifeh

Substituted for: Senate Bill No. 2317

By Senators Kyle, McLeary, Burks, Williams, Harper, Cohen, Kilby, Herron, Chism, Jackson, Crutchfield

AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 6, Part 1 relative to early childhood education and pre-kindergarten programs.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 6, Part 1, is amended by adding the following language as appropriately designated new sections:

Section ()

() This act shall be known and may be cited as the "Voluntary Pre-K for Tennessee Act of 2005".

() It is the legislative intent that, based on the success of Tennessee's existing pilot pre-kindergarten programs, these programs be expanded on a voluntary basis by local education agencies and the communities they serve to provide more opportunities for quality early childhood education and pre-kindergarten experiences.

() Nothing in this act shall be construed to make enrollment in these programs mandatory, nor shall anything in this act be construed to be an entitlement to any service or program authorized by this Act.

() Implementation of these programs by local education agencies shall be voluntary.

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() Each local education agency is authorized to and may provide for enrollment in pre-kindergarten programs for any at risk child residing in the geographic area served by the local education agency who is four (4) years of age on or before September 30. Any child may enroll in a program when an insufficient number of at risk children are enrolled to fill a specific classroom.

() Programs operated pursuant to this act shall comply with the following requirements:

() a maximum class size of 20;

() at least one (1) licensed teacher per classroom certified in early childhood education;

() at least one (1) educational assistant per classroom who holds a child development associate credential (CDA) or associate degree in early childhood education or who is actively working toward acquiring such credentials; provided, however, that if no person with such credentials is available, then educational assistants who hold a high school diploma and have relevant experience working with children in pre-kindergarten or other early childhood programs may be employed;

() a daily minimum of five and one-half (5 ½) hours of quality instructional time;

() use of educational, age-appropriate curriculum that is aligned with the state department of education approved early learning standards and which includes, but is not limited to literacy, writing, math and science skills;

() a developmental learning program that addresses the cognitive, physical, emotional, social and communication areas of child development; and

() rules promulgated and policies adopted by the state board of education related to early childhood education and pre-kindergarten programs.

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() Local education agencies may apply to the department of education for funding and approval of one or more pre-kindergarten programs. Local education agencies may contract and enter into collaborative agreements for operation of these programs with non-school system entities in the geographical area served by the local education agency including, but not limited to, non-profit and for-profit child care providers and Head Start programs. Local education agencies shall not contract or collaborate with any child care provider licensed by the department of human services unless that provider has attained the highest designation under the rated licensing system administered by the department of human services pursuant to Title 71, Chapter, 3, Part 5.

() As part of the application process, the local education agency shall include a statement that it has given consideration for how to serve all children four (4) years of age within the geographical area served by the local education agency in the event programs are later authorized for all children, regardless of at risk status. The long range plan shall include the proposed sources of local matching funds required under this act. Where applicable, the local education agency is encouraged to include a resolution of support from the local governing body indicating intent to appropriate the required local matching funds. Applications that target establishing programs for at-risk children not served by an existing program shall be given preference in the application process. Documentation of local financial support shall also be considered as a factor in the application process. Local education agencies are encouraged to collaborate with

non-school system entities where such collaboration provides an efficient means for expansion of pre-kindergarten classrooms authorized under this act.

() The commissioner of education shall establish the system for submitting applications and, subject to available funding, programs shall be approved on a competitive basis.

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() Each local education agency applying for programs under the provisions of this Act shall create and appoint a "community pre-k advisory council". The director of schools or the director's designee shall serve as chair and coordinate the activities of the council. The council shall include, but not be limited to, members representing the local school board, parents, teachers, non-profit providers, for-profit providers, Head Start, the business community, and local government funding bodies where applicable. The council shall provide input to the local board of education in creating the board's application for programs, taking into consideration the number and type of existing programs currently serving children four (4) years of age within the geographical area served by the local education agency.

() While the content of the final application for programs shall be within the sole authority of the local school board, no board shall submit an application without first allowing the council to provide input, either in writing or otherwise, and without first giving due consideration to the council's input and recommendations. The board's application shall include a description of the extent to which the council was afforded an opportunity to provide input in the application process.

Section ()

() Programs established under this Act shall be subject to annual appropriations.

() The commissioner of education shall annually recommend a funding amount per classroom for those classrooms established under this Act. The commissioner shall take into account the necessary components required to operate such classrooms and, to the extent such components are also reflected in the Basic Education Program (BEP) funding formula, shall include the same costs per component in recommending the amount of funding per classroom.

() As a condition of receiving state funds for classrooms pursuant to this Act, the local education agency shall provide a matching amount of funds based on the applicable state and local Basic Education Program (BEP) classroom component ratio in effect for the local education agency in which the program is located. In addition, other sources of funds, such as grants, federal funds, and private funds may be used by the local education agency to meet the matching funds requirement under this section. The local education agency may also meet the matching funds requirement under this section through "in-kind" matches including, but not limited to, the use of non-LEA owned physical facilities, instructional materials, equipment and supplies, food and nutrition services and transportation services. Funds used by the local education agency to meet the matching requirements of this section, regardless of their source, shall not be used in

calculating the maintenance of local funding effort requirement pursuant to § 49-3-314. Any local funding shall be subject to annual appropriations by the local governing body.

() No child shall be required to pay tuition or fees solely for the purpose of enrolling in or attending a pre-kindergarten program established under this Act. Nothing in this section prohibits charging fees for childcare which may be provided outside the times of the instructional day provided in these programs.

() No state funds received for pre-kindergarten programs pursuant to this Act shall be used to supplant any other state or local funds for pre-kindergarten programs.

Section ()

() There is hereby established within the department of education an Office of Early Learning. The office shall:

() administer the pre-kindergarten classroom application process;

() provide oversight, monitoring, technical assistance, coordination, and training for pre-kindergarten classroom providers;

() serve as a clearinghouse for information and best practices related to pre-kindergarten programs;

() coordinate activities and promote collaboration with other departments of state government in developing and supporting pre-kindergarten programs;

() review existing regulations and standards and recommend needed changes to promote a consistent approval, assessment and monitoring process for providers of pre-kindergarten programs established under this act; and

() provide an annual report to the Governor and the General Assembly on the status of pre-kindergarten programs which shall include, at a minimum, the number, location and types of providers of pre-kindergarten classrooms and the number of at-risk students served.

Section ()

The office of education accountability shall coordinate a study of the effectiveness of pre-kindergarten programs authorized under this act. The office is authorized to engage one or more independent evaluators to assess the effectiveness of these programs.

Section ()

For the programs authorized by this part, the appropriation from excess net education lottery proceeds available under the provisions of title 4, chapter 51 and title 49, chapter 4, part 9 shall not exceed twenty-five million dollars (\$25,000,000) in any fiscal year.

SECTION 2. Tennessee Code Annotated, Section 49-6-101(f)(1) is amended by adding the following language as a new subdivision (f)(6) and by redesignating current subdivision (f)(6) as subdivision (f)(7):

Effective with fiscal year 2005-2006, the local education agency may include in its application a request for funding pursuant to the requirements of this Act for any existing pilot pre-kindergarten program established under § 49-6-101(f), provided however, that no state funds received for pre-kindergarten programs pursuant to this Act shall be used to supplant any other state or local funds for pre-kindergarten programs.

SECTION 3. Tennessee Code Annotated, Section 49-6-101(d) is amended by deleting the word "The" at the beginning of the first sentence in the subsection and by substituting instead the following:

Except as otherwise provided in this part, the

SECTION 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 5. This act shall take effect upon becoming law, the public welfare requiring it.

PASSED: May 18, 2005


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 6th day of June 2005


PHIL BREDESEN, GOVERNOR