

HB 2468 -4 STAFF MEASURE SUMMARY

House Committee On Rules

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Meeting Dates: 4/27, 5/11

WHAT THE MEASURE DOES:

Requires landlords to allow the use of a dwelling unit as a family child care home if the home is certified or registered with the Office of Child Care (OCC); the tenant has notified the landlord; and the home does not violate zoning, an association's governing documents, or Early Learning Council (ELC) rules. Exempts housing for older persons. Provides that landlord may require a tenant to pay in advance for costs of certain modifications, prohibits use not allowed under zoning or a homeowner association's governing documents, and prohibits use not allowed by ELC rules. Allows landlord to require tenant operating family child care home to either require parents of children under the care of the facility to sign a document addressing liability and acknowledging the home does not maintain liability coverage; or to carry and maintain a surety bond or liability policy covering injuries that meet certain parameters. Prohibits landlord retaliation against tenant operating or intending to operate the home provided the tenant is in compliance. Requires ELC to adopt rules establishing reasonable requirements for landlords of tenants operating a registered home, while authorizing ELC to do so for landlords of tenants operating certified homes. Clarifies that children of family child care home operator who are not school age are included in maximum limit of 10 children served. Requires ELC to adopt rules establishing capacity and adult to child ratio requirements. Replaces statutory references to "regulated subsidy facility" with "subsidized care facility." Restricts ability of OCC to conduct inspection to times when ability to care for children is not impeded. Allows provider of home to be represented by counsel or advocate in contested cases. Establishes burden of evidence on OCC in contested cases. Requires ELC to adopt rules establishing timeline for Department of Early Learning and Care (DELIC) to issue payments to Employment Related Day Care providers and pay supplemental premium of 10 percent for late payments. Requires Director of Department of Consumer and Business Services to notify DELIC when modifying rules relating to building codes that may affect child care providers. Nullifies provisions of planned community's governing documents and guidelines that prohibit or restrict operation of family child care home in multifamily properties. Authorizes Department of Administrative Services to establish union benefit trust for providing child care or retirement benefits through collective bargaining agreement with family child care providers.

REVENUE: No revenue impact

FISCAL: Fiscal impact issued

ISSUES DISCUSSED:

- Impact of COVID-19 public health emergency on child care supply
- Services provided by family child care homes
- Regulation of family child care homes by Office of Child Care

EFFECT OF AMENDMENT:

-4 Removes provisions relating to operation of family child care homes in rental housing properties. Maintains authorization for Early Learning Council (ELC) to adopt rules establishing reasonable requirements for landlords of tenants who operate family child care homes. Prohibits ELC from considering provider's children who are between ages 10 and 12 when establishing capacity or adult to child ratio requirements unless children require additional care due to special needs or disabilities. Removes definition of "reasonable time" for purposes of unannounced

HB 2468 -4 STAFF MEASURE SUMMARY

inspections of child care facilities by OCC. Removes provisions relating to provider representation by counsel. Modifies amount of supplemental payments made to providers. Removes provisions relating to planned community's governing documents that restrict operation of family child care home.

REVENUE: No revenue impact

FISCAL: Fiscal impact issued

BACKGROUND:

The Office of Child Care (OCC) within the Oregon Department of Education's Early Learning Division (ELD) oversees the registration and certification of child care facilities. House Bill 3073 (2021) and House Bill 4005 (2022) converted ELD into an independent agency called the Department of Early Learning and Care beginning July 1, 2023.

Home-based facilities caring for up to 10 children with no square footage requirements are considered "registered," while those caring for up to 16 children and a square footage requirement per child are considered "certified." Other differences generally include staff training, inspection requirements, and renewal timelines. Current law does not prohibit landlords from barring tenants' use of rented dwelling units as home-based child care facilities, meaning that landlords may evict or otherwise take action towards tenants who operate such facilities.

House Bill 2468 requires landlords allow tenants' use of rented dwelling units as child care facilities, prescribes conditions for tenants operating family child care homes in rental properties, and makes other changes relating to family child care homes.