



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

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Joint Committee on Finance

Paper #858

### *Temporary Relief for Needy Persons (TANF)*

## **Transfer of Child Care Licensing From DHFS to DWD (DHFS -- Children and Families and DWD -- Economic Support and Child Care)**

[LFB 2005-07 Budget Summary: Page 298, #11 and Page 559, #16]

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### **CURRENT LAW**

**Department of Health and Family Services.** The Bureau of Regulation and Licensing (BRL) in the Department of Health and Family Services (DHFS) is responsible for licensing and regulating child care and day care facilities, group homes for children, residential care centers for children and youth (RCCs), shelter care facilities, and child placing agencies for foster care and adoption.

Currently, BRL has 90.45 FTE positions, including 54.55 licensing specialists and program specialists who inspect and issue licenses to qualified new applicants, conduct ongoing monitoring visits and license continuation reviews, investigate complaints, take enforcement actions against non-compliant facilities, and provide technical assistance, training, and information to providers and the public. BRL staff provide these services to child care facilities and to the four types of child welfare providers BRL licenses.

BRL costs are currently supported from several funding sources, including federal funds the state receives under the child care development block grant (CCDBG) and the social services block grant (SSBG), program revenue (PR) from licensing revenues, and GPR. Base funding (as affected by standard budget adjustments) for child care licensing activities in DHFS is \$5,876,200 (\$263,100 GPR, \$328,800 FED, \$718,200 PR from licensing fees, and \$4,566,100 PR in CCDBG funds) and 80.19 positions (4.59 FED positions and 75.60 PR positions).

*Licensing Fees.* Under current law, the licensing fee for a family child care license is \$60.50 every two years, and the fee for a group child care license is \$30.25, plus \$8.47 for every child the center is licensed to serve, every two years.

**Department of Workforce Development.** Under Wisconsin Shares, administered by the Department of Workforce Development (DWD), the state subsidizes the cost of child care for qualified low-income families by making payments directly to an allowable child care provider chosen by the parent or by providing vouchers to the parent. Allowable child care providers include: (a) a licensed day care provider; (b) a certified day care provider; or (c) a day care program provided or contracted for by a school board.

Day care providers that are not required to be licensed by the state nor established by a school board, but are reimbursed under the subsidy program, must be certified by the county department of social or human services. Certification procedures and qualifications are established by rules promulgated by DWD.

Wisconsin Shares is funded, in part, with the CCDBG. The CCDBG provides funds for child care services for low-income families and to improve the quality and supply of child care for all families. In addition to Wisconsin Shares, the CCDBG currently supports child care resource and referral agencies, child care scholarships and stipends, the child care information center, child care administrative costs, the child care local pass-through program, and child care licensing activities performed by DHFS. The amount of the CCDBG in 2004-05 totaled \$81.6 million.

## **GOVERNOR**

**DHFS.** Reduce funding by \$6,046,000 (-\$287,200 GPR, -\$474,500 FED, and -\$5,284,300 PR) in 2005-06 and by \$6,048,300 (-\$287,200 GPR, -\$474,500 FED, and -\$5,286,600 PR) in 2006-07 and delete 83.20 positions (-7.59 FED positions and -75.61 PR positions), beginning in 2005-06, to reflect the transfer of day care licensing duties from DHFS to DWD. The federal funds are SSBG funds that DHFS receives and would transfer to DWD, and the PR funds include federal CCDBG that DWD has transferred to DHFS to support child care licensing activities (\$4,566,100 in 2005-06 and \$4,568,400 in 2006-07) and revenue from child care licensing fees (\$718,200 annually).

Authorize DWD, instead of DHFS, to: (a) license day care centers; (b) promulgate rules establishing minimum requirements for day care center licensure and minimum standards for day care center operation; (c) inspect and investigate day care centers; and (d) impose sanctions and penalties for operating a day care center without a license or for violating a provision of day care center licensure or a minimum standard for the operation of a day care center. Replace current statutory references to DHFS with references to DWD with respect to day care licensing. Delete the requirement that DWD transfer federal CCDBG funds to DHFS.

Provide that, on the bill's general effective date: (a) the assets and liabilities of DHFS primarily related to the licensing of day care centers, as determined by the Secretary of the

Department of Administration (DOA), would become the assets and liabilities of DWD; (b) all positions and all incumbent employees holding these positions in DHFS, as determined by the DOA Secretary, would be transferred to DWD and retain the employee rights they enjoyed in DHFS immediately before the transfer; (c) all tangible property, including records, of DHFS that is primarily related to the licensing of day care centers, as determined by the DOA Secretary, would be transferred to DWD; (d) all contracts entered into by DHFS that are primarily related to the licensing of day care centers, as determined by the DOA Secretary, remain in effect and are transferred to DWD, which would carry out any obligations under such a contract; (e) all rules promulgated by DHFS that are in effect related to licensing of day care centers, remain in effect until their specified expiration date or until amended or repealed, and all orders issued by DHFS that are primarily related to the licensing of day care centers, remain in effect until their specified expiration dates or until modified or rescinded by DWD; and (f) any matter pending with DHFS relating to the licensing of day care centers is transferred to DWD, and all materials submitted to or actions taken by DHFS with respect to the pending matter are considered as having been submitted to or taken by DWD.

**DWD.** Increase funding by \$2,772,500 annually (\$287,200 GPR, -\$574,300 FED, and \$3,059,600 PR) and increase FTE positions by 83.20 annually (55.44 FED and 27.76 PR) to reflect the transfer of licensing responsibilities of child care providers from DHFS to DWD and to reflect an increase in licensing fees.

The bill would provide \$287,200 GPR annually in DWD for child care licensing activities, which is currently allocated in DHFS for child care licensing. In addition, under the bill, CCDBG funding would be retained by DWD for licensing activities, rather than transferred to DHFS under current law. The bill would also require DHFS to transfer \$474,600 PR annually to DWD from the SSBG to support child care licensing activities. The bill would also transfer 83.2 positions from DHFS to DWD.

The bill would create a program revenue appropriation for the funds received from licensing fees to be used for the costs of licensing child care providers. In addition, the bill would double the per child fee for group day care centers from \$8.47 to \$16.94, which would generate additional program revenue of \$574,300 annually, for total program revenue generated from license fees in DWD of \$1,292,500 annually. The additional revenue from these fees would reduce the amount of CCDBG funding needed for licensing by \$574,300 FED annually.

The bill includes \$1,292,500 annually in PR-S funding for DWD's interagency and intra-agency programs appropriation to reflect that these costs are assessed to DWD's licensing activities appropriation on a charge-back basis and, therefore, "double-counted" in the agency's budget.

With these changes, the bill would provide DWD with \$5,987,900 annually to administer licensing activities. The intent is to provide the same level of funding provided to DHFS as under current law, but the bill would replace \$574,300 in federal CCDBG funds with the additional revenue from the license fee increase. However, the amount actually provided to DHFS under current law is \$5,876,200, which is discussed further in Discussion Point 4. The

following table summarizes the total funding, by source, that would be budgeted for DWD to administer licensing activities under AB 100.

Child Care Block Grant	\$3,933,600
Social Services Block Grant Transfer	474,600
Licensing Fees*	1,292,500
GPR	<u>287,200</u>
Total	\$5,987,900

\*The bill includes an additional \$1,292,500 PR-S annually to reflect the charge-back.

## DISCUSSION POINTS

### Transfer of Child Care Licensing from DHFS to DWD

1. Table 1 identifies the number of facilities licensed by BRL in 2004 (except child placing agencies) and the maximum number of children these facilities are licensed to serve.

**TABLE 1**

#### Number of Licensed Facilities and Total Capacity 2004

	<u>Capacity</u>	<u>Number of Facilities</u>	<u>Percent of Facilities</u>	<u>Capacity</u>	<u>Percent of Capacity</u>
Family Day Care	4 to 8	3,220	100.0%	25,685	100.0%
Group Day Care	9 to 20	477	19.7%	8,361	6.5%
	21 to 50	1,057	43.5	37,866	29.3
	51 to 100	653	26.9	47,561	36.9
	101 to 150	179	7.4	22,486	17.4
	151 to 200	40	1.6	6,962	5.4
	201 or More	<u>22</u>	<u>0.9</u>	<u>5,768</u>	<u>4.5</u>
Totals		2,428	100.0%	129,004	100.0%
Group Home	4 to 8	128	100.0%	956	100.0%
Residential Care Center	1 to 8	5	13.5%	37	2.7%
	9 to 20	7	18.9	110	7.9
	21 to 50	18	48.7	569	41.1
	51 to 100	4	10.8	318	22.9
	101 or More	<u>3</u>	<u>8.1</u>	<u>352</u>	<u>25.4</u>
	Totals		37	100.0%	1,386
Shelter Care	1 to 8	7	38.9%	52	19.1%
	9 to 20	10	55.5	176	64.7
	21 or More	<u>1</u>	<u>5.6</u>	<u>44</u>	<u>16.2</u>
	Totals	18	100.0%	272	100.0%
Grand Totals		5,831		157,303	

2. The administration argues that transferring child care licensing activities from DHFS to DWD would consolidate into one state agency the continuum of actions and activities affecting child care facilities, including licensure, certification, funding under Wisconsin Shares, programs to improve availability and quality of child care, and if approved by the Legislature, the quality rating system that would be created in the bill. The administration believes that the transfer would allow for improved communication and coordination for child care providers, use of a single automated system, singular direction of staff from one state agency (including consistent training and increased professional development), potential long term efficiencies, and a more coordinated foundation for the quality rating and tiered reimbursement systems included in the bill.

3. However, this transfer would also result in the division of current licensing activities in DHFS, since current DHFS staff work with both child care and child welfare providers and most do not specialize in licensing one type of provider. The licensure process for child care and child welfare providers is the same, but the fees and administrative rules that govern the licensing requirements differ. Keeping the child care licensing activities in DHFS would maintain all licensing activities together in one state department.

4. The administration has requested that the number of positions and funding that would be transferred from DHFS to DWD in AB 100 be adjusted to: (a) correctly reflect the number of positions that conduct child care licensing activities, since the bill would transfer some positions that DHFS needs to continue to conduct child welfare licensing activities; (b) ensure that the CCDBG funding budgeted in DWD equals the amount of CCDBG funding that would be transferred from DHFS; and (c) increase GPR funding in DWD to partially offset the deficit in programs under the temporary assistance for needy families program. To make these adjustments, the Committee could provide \$169,900 (\$24,100 GPR and \$145,800 FED) and 3.01 positions (3.0 FED positions and 0.01 PR position) annually in DHFS and reduce funding by \$111,700 (\$34,100 GPR and -\$145,800 PR) in 2005-06 and by \$109,400 (\$36,400 GPR and -\$145,800 PR) in 2006-07, and delete 3.01 positions (-0.01 FED positions and -3.00 PR positions), beginning in 2005-06, in DWD.

5. Under the bill (as adjusted by the position changes in Discussion Point 4), DHFS would retain 10.26 positions to continue to conduct child welfare licensing activities. The licensing staff in BRL are currently located in the five DHFS district offices (Green Bay, Rhineland, Waukesha, Madison, and Eau Claire) and three DHFS regional offices (Fond du Lac, Wisconsin Rapids, and La Crosse). The administration has not yet decided if the staff located outside of Madison would be physically transferred to the DWD regional offices (which are located in Ashland, Eau Claire, Green Bay, Milwaukee, Waukesha, and Rhineland), or if they would remain in the DHFS offices.

### **Child Care Licensing Fees**

6. The fee increase in the Governor's bill is intended to maintain the total level of support for current child care licensing activities, but would reduce the amount of CCDBG funds needed for the program. The CCDBG funds not used for child care licensing activities could then

be used to fund other TANF-related programs.

7. The current biennial child care licensing fees are structured as follows: (a) \$60.50 for family day care; and (b) \$30.25 plus \$8.47 per slot for group day care. Most of the licensing revenue comes from the per slot fee. Under the bill, the per slot fee for group day care would increase from \$8.47 to \$16.94. The total per slot fee a child care center is required to pay is based on the number of children the child care center is licensed to serve.

8. Based on updated revenue figures, it is estimated that the Governor's recommendation to increase the biennial per slot fee from \$8.47 to \$16.94 would increase annual licensing revenue by \$582,400 annually. To reflect this reestimate, funding in the bill from child care licensing fees could be increased by \$8,100 PR annually and CCDBG funding could be decreased by a corresponding amount.

9. There are several arguments for increasing the proportion of child care licensing activity costs that are supported with licensing revenues. First, it could be argued that these entities should pay a greater portion of the costs the state incurs to regulate them. Currently, revenue from child care licensing fees support 12% of the total annual cost of child care licensing activities and CCDBG supports 78% of the total costs. Combined, these two funding sources support 90% of the total costs of child care licensing activities. Second, the Committee may wish to maximize the use of CCDBG funds available for other eligible purposes, particularly to support TANF-eligible costs, due to the limited availability of TANF funds. For these reasons, the Committee could increase the per slot licensing fee above the amounts recommended by the Governor.

10. For example, the licensing fees could be increased to support a specified percentage of the total licensing costs. Table 2 shows the amount of licensing fee revenue and CCDBG funds that currently support child care licensing activities, the Governor's recommendation (as reestimated), and two additional alternatives to increase the level of licensing fee revenue by an increase in the biennial per slot fee for group day care centers, and the resulting level of CCDBG funds needed to support current activities.

**TABLE 2**

**Alternative Licensing Fee and CCDBG Funding Levels**

Percent of Total	Licensing Fee			Percent of Total	CCDBG	
	Total Annual Funding	Biennial Per Slot Fee	Change to Annual Amount Currently Provided		Amount	Change to Annual Amount Currently Provided
12% (Current Law)	\$718,200	\$8.47	\$0	78%	\$4,566,100	\$0
22% (Governor)	1,300,600	16.94	582,400	68	3,983,700	-582,400
33%	1,939,100	26.23	1,220,900	57	3,345,200	-1,220,900
50%	2,938,100	40.76	2,219,900	40	2,346,200	-2,219,900

11. The Governor's revenue estimates and the estimates shown in Table 2 assume that the fee increase would first be effective July 1, 2005. To reflect this intent, the Committee could

specify that the fee increase would be effective on that date and that the administering agency (either DHFS or DWD) has the authority to collect the fee revenue retroactively, if the effective date of AB 100 is after July 1, 2005.

12. Licensing fees were last increased by 10% annually in each year of the 1997-99 biennium. Increasing licensing fees would require facilities to either absorb these costs or pass the costs on to families with children enrolled in their facilities. However, assuming that the per slot fee equals a per child fee and this cost is passed to the family of each child, currently, a family with a child in group day care pays \$4.24 annually for the per slot licensing fee. If the biennial per slot fee were increased to \$40.76, a family would pay \$20.38 annually, or \$1.70 a month, for the licensing fee. On the other hand, raising the licensing fee raises the cost of child care and could adversely affect some families.

### Summary

13. The alternatives are structured around two decisions. First, the Committee should decide which state agency would license child care agencies -- either DHFS or DWD. Under Alternatives 1 and 2, DWD would administer these activities and under Alternatives 3 and 4, DHFS would continue to license child care facilities. Second, the Committee should decide the amount of the biennial, per slot fee for group child care facilities. Under Alternatives 2a and 3, the per slot fee would remain at the current level of \$8.47. Alternatives 1 and 4a increase the fee to \$16.94 biennially, as recommended by the Governor; Alternatives 2b and 4b increase the fee to \$26.23 per slot; and Alternatives 2c and 4c increase the fee to \$40.76 per slot.

### ALTERNATIVES

1. Approve the Governor's recommendation to transfer child care licensing to DWD from DHFS, with the modifications identified in Discussion Points 4 and 8. In addition, specify that the fee increase is effective on July 1, 2005, and that DWD may assess this fee on licensed child care providers retroactively to July 1, 2005.

<b><u>DHFS - Alternative 1</u></b>	<b><u>GPR</u></b>	<b><u>FED</u></b>	<b><u>PR</u></b>	<b><u>TOTAL</u></b>
<b>2005-07 FUNDING</b> (Change to Bill)	\$48,200	\$291,600	\$0	\$339,800
<b>2006-07 POSITIONS</b> (Change to Bill)	0.00	3.00	0.01	3.01

<b><u>DWD - Alternative 1</u></b>	<b><u>GPR</u></b>	<b><u>FED</u></b>	<b><u>PR</u></b>	<b><u>TOTAL</u></b>
<b>2005-07 REVENUE</b> (Change to Bill)			\$16,200	\$16,200
<b>2005-07 FUNDING</b> (Change to Bill)	\$70,500	-\$16,200	-\$259,200	-\$204,900
<b>2006-07 POSITIONS</b> (Change to Bill)	0.00	-0.01	-3.00	-3.01

2. Adopt Alternative 1, but modify the child care licensing fee to one of the following:

a. \$8.47 per slot, such that there is no fee increase and licensing fees would represent approximately 12% of total licensing costs, and: (a) reduce funding by \$1,164,800 PR annually, which reflects eliminating the fee increase under the bill (as reestimated) of \$582,400 PR annually and an additional \$582,400 PR-S annually for the charge-back; (b) increase CCDBG funding for child care licensing activities by \$582,400 FED annually; and (c) convert 8.67 PR positions to FED positions, beginning in 2005-06.

<b><u>DWD - Alternative 2a</u></b>	<b><u>FED</u></b>	<b><u>PR</u></b>	<b><u>TOTAL</u></b>
<b>2005-07 REVENUE</b> (Change to Bill)	\$0	- \$1,164,800	- \$1,164,800
<b>2005-07 FUNDING</b> (Change to Bill)	\$1,164,800	- \$2,329,600	- \$1,164,800
<b>2006-07 POSITIONS</b> (Change to Bill)	8.67	- 8.67	0.00

b. \$26.23 per slot, such that licensing fees would support approximately 33% of total child care licensing costs, and: (a) increase funding by \$1,277,000 PR annually, which reflects a fee increase of \$638,500 PR annually and an additional \$638,500 PR-S annually for the charge-back; (b) reduce CCDBG funding for child care licensing activities by \$638,500 FED annually; and (c) convert 9.5 FED positions to PR positions, beginning in 2005-06.

<b><u>DWD - Alternative 2b</u></b>	<b><u>FED</u></b>	<b><u>PR</u></b>	<b><u>TOTAL</u></b>
<b>2005-07 REVENUE</b> (Change to Bill)	\$0	\$1,277,000	\$1,277,000
<b>2005-07 FUNDING</b> (Change to Bill)	- \$1,277,000	\$2,554,000	\$1,277,000
<b>2006-07 POSITIONS</b> (Change to Bill)	- 9.50	9.50	0.00

c. \$40.76 per slot, such that licensing fees would support approximately 50% of total child care licensing costs, and: (a) increase funding by \$3,275,000 PR annually, which reflects a fee increase of \$1,637,500 PR annually and an additional \$1,637,500 PR-S for the charge-back; (b) reduce CCDBG funding for child care licensing activities by \$1,637,500 FED annually; and (c) convert 24.37 FED positions to PR positions, beginning in 2005-06.

<b><u>DWD - Alternative 2c</u></b>	<b><u>FED</u></b>	<b><u>PR</u></b>	<b><u>TOTAL</u></b>
<b>2005-07 REVENUE</b> (Change to Bill)	\$0	\$3,275,000	\$3,275,000
<b>2005-07 FUNDING</b> (Change to Bill)	- \$3,275,000	\$6,550,000	\$3,275,000
<b>2006-07 POSITIONS</b> (Change to Bill)	- 24.37	24.37	0.00

3. Delete the Governor's recommendation, such that child care licensing would remain at DHFS and the current fees would be retained.

<b><u>DHFS - Alternative 3</u></b>	<b><u>GPR</u></b>	<b><u>FED</u></b>	<b><u>PR</u></b>	<b><u>TOTAL</u></b>
<b>2005-07 FUNDING</b> (Change to Bill)	\$574,400	\$949,000	\$10,570,900	\$12,094,300
<b>2006-07 POSITIONS</b> (Change to Bill)	0.00	7.59	75.61	83.20

<u>DWD - Alternative 3</u>	<u>GPR</u>	<u>FED</u>	<u>PR</u>	<u>TOTAL</u>
<b>2005-07 REVENUE</b> (Change to Bill)			- \$1,148,600	- \$1,148,600
<b>2005-07 FUNDING</b> (Change to Bill)	- \$574,400	\$1,148,600	- \$6,119,200	- \$5,545,000
<b>2006-07 POSITIONS</b> (Change to Bill)	0.00	- 55.44	- 27.76	- 83.20

4. Adopt Alternative 3 (retain child care licensing in DHFS) and increase the biennial child care licensing fee from \$8.47 to one of the following and specify that the fee increase is effective on July 1, 2005 and that DHFS may assess this fee on licensed child care providers retroactively to July 1, 2005:

a. \$16.94, as recommended by the Governor, and provide \$582,400 PR annually, such that child care licensing fee revenue would support approximately 22% of child care licensing costs. In addition, reduce the amount of federal CCDBG that is transferred to DHFS from DWD by \$582,400 annually and convert 8.67 PR (CCDBG) positions to PR (licensing fee) positions, beginning in 2005-06.

<u>DHFS - Alternative 4a</u>	<u>PR</u>
<b>2005-07 REVENUE</b> (Change to Bill)	\$1,164,800

<u>DWD - Alternative 4a</u>	<u>FED</u>
<b>2005-07 FUNDING</b> (Change to Bill)	- \$1,164,800

b. \$26.23, and provide \$1,220,900 PR annually, such that child care licensing fee revenue would support approximately 33% of child care licensing costs. In addition, reduce the amount of federal CCDBG that is transferred to DHFS from DWD by \$1,220,900 annually and convert 18.17 PR (CCDBG) positions to PR (licensing fee) positions, beginning in 2005-06.

<u>DHFS - Alternative 4b</u>	<u>PR</u>
<b>2005-07 REVENUE</b> (Change to Bill)	\$2,441,800

<u>DWD - Alternative 4b</u>	<u>FED</u>
<b>2005-07 FUNDING</b> (Change to Bill)	- \$2,441,800

c. \$40.76, and provide \$2,219,900 PR annually, such that child care licensing fee revenue would support approximately 50% of child care licensing costs. In addition, reduce the amount of federal CCDBG that is transferred to DHFS from DWD by \$2,219,900 annually and convert 33.04 PR (CCDBG) positions to PR (licensing fee) positions, beginning in 2005-06.

<b><u>DHFS - Alternative 4c</u></b>	<b><u>PR</u></b>
<b>2005-07 REVENUE</b> (Change to Bill)	\$4,439,800

<b><u>DWD - Alternative 4c</u></b>	<b><u>FED</u></b>
<b>2005-07 FUNDING</b> (Change to Bill)	-\$4,439,800

Prepared by: Yvonne M. Onsager and Kim Swissdorf