Senate Bill 1591
Sponsored by Senator ARMITAGE

SUMMARY
The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Increases maximum number of children that may be cared for in certified family child care home. Sunsets July 1, 2024.
Takes effect July 1, 2022.

A BILL FOR AN ACT
Relating to licensure requirements for child care; creating new provisions; amending ORS 329A.280 and 329A.440; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 329A.280 is amended to read:

329A.280. (1) A person may not operate a child care facility, except a facility subject to the registration requirements of ORS 329A.330, without a certification for the facility from the Office of Child Care.

(2) The Early Learning Council shall adopt rules for the certification of a family child care home caring for not more than 16 children. Rules may be adopted specifically for certified child care facilities operated in a single-family dwelling or other dwelling. Notwithstanding fire and other safety regulations, the rules that the council adopts for certified child care facilities shall set standards that can be met without significant architectural modification. In adopting the rules, the council may consider and set limits according to factors including the age of children in care, the ambulatory ability of children in care, the number of the provider's children present, the length of time a particular child is continuously cared for and the total amount of time a particular child is cared for within a given unit of time. The rules must require compliance with the provisions of ORS 329A.600.

(3) In addition to rules adopted for and applied to a certified family child care home providing child care for not more than 20 children, the council shall adopt and apply separate rules appropriate for any child care facility that is a child care center.

(4) Any person seeking to operate a child care facility may apply for a certification for the facility from the Office of Child Care and receive a certification upon meeting certification requirements.

(5) A facility described in ORS 329A.250 (5)(d) may, but is not required to, apply for a certification under this section and receive a certification upon meeting certification requirements.

SECTION 2. ORS 329A.440 is amended to read:

329A.440. (1) As used in this section:

(a) “Child care center” means a child care facility, other than a family child care home, that is certified under ORS 329A.280 (3).

(b) “Family child care home” means a child care facility in a dwelling that is caring for not
(c) “Land use regulation” and “local government” have the meanings given those terms in ORS 197.015.

(2)(a) A family child care home is considered a residential use of property for zoning purposes. A family child care home is a permitted use in all areas zoned for residential or commercial purposes, including areas zoned for single-family dwellings.

(b) A local government may not enact or enforce a land use regulation prohibiting the use of a residential dwelling, located in an area zoned for residential or commercial use, as a family child care home.

(c) A local government may not impose land use regulations, special fees or conditions on the establishment or maintenance of a family child care home more restrictive than those imposed on other residential dwellings in the same zone.

(3) Notwithstanding subsection (2)(c) of this section, a county may impose reasonable conditions on the establishment of a family child care home in an area zoned for farm use.

(4)(a) A child care center is a permitted use in all areas zoned for commercial or industrial use, except areas specifically designated by the local government for heavy industrial use.

(b) A local government may not impose land use regulations, special fees or conditions on the establishment or maintenance of a child care center in an area zoned for commercial or industrial use that are more restrictive than those imposed for other uses in the same zone.

(5) Notwithstanding subsection (4) of this section, a local government may impose reasonable conditions upon the establishment or maintenance of a child care center in an area zoned for industrial uses.

(6) As used in this section, “reasonable conditions” includes, but is not limited to, siting restrictions for properties designated on the Department of Environmental Quality’s statewide list of contaminated properties as having known or suspected releases of hazardous substances.

SECTION 3. ORS 329A.280, as amended by section 1 of this 2022 Act, is amended to read:

329A.280. (1) A person may not operate a child care facility, except a facility subject to the registration requirements of ORS 329A.330, without a certification for the facility from the Office of Child Care.

(2) The Early Learning Council shall adopt rules for the certification of a family child care home caring for not more than [20] 16 children. Rules may be adopted specifically for certified child care facilities operated in a single-family dwelling or other dwelling. Notwithstanding fire and other safety regulations, the rules that the council adopts for certified child care facilities shall set standards that can be met without significant architectural modification. In adopting the rules, the council may consider and set limits according to factors including the age of children in care, the ambulatory ability of children in care, the number of the provider’s children present, the length of time a particular child is continuously cared for and the total amount of time a particular child is cared for within a given unit of time. The rules must require compliance with the provisions of ORS 329A.600.

(3) In addition to rules adopted for and applied to a certified family child care home providing child care for not more than [20] 16 children, the council shall adopt and apply separate rules appropriate for any child care facility that is a child care center.

(4) Any person seeking to operate a child care facility may apply for a certification for the facility from the Office of Child Care and receive a certification upon meeting certification require-
(5) A facility described in ORS 329A.250 (5)(d) may, but is not required to, apply for a certification under this section and receive a certification upon meeting certification requirements.

SECTION 4. ORS 329A.440, as amended by section 2 of this 2022 Act, is amended to read:

329A.440. (1) As used in this section:

(a) “Child care center” means a child care facility, other than a family child care home, that is certified under ORS 329A.280 (3).

(b) “Family child care home” means a child care facility in a dwelling that is caring for not more than 16 children and is certified under ORS 329A.280 (2) or is registered under ORS 329A.330.

(c) “Land use regulation” and “local government” have the meanings given those terms in ORS 197.015.

(2)(a) A family child care home is considered a residential use of property for zoning purposes.

A family child care home is a permitted use in all areas zoned for residential or commercial purposes, including areas zoned for single-family dwellings.

(b) A local government may not enact or enforce a land use regulation prohibiting the use of a residential dwelling, located in an area zoned for residential or commercial use, as a family child care home.

(c) A local government may not impose land use regulations, special fees or conditions on the establishment or maintenance of a family child care home more restrictive than those imposed on other residential dwellings in the same zone.

(3) Notwithstanding subsection (2)(c) of this section, a county may impose reasonable conditions on the establishment of a family child care home in an area zoned for farm use.

(4)(a) A child care center is a permitted use in all areas zoned for commercial or industrial use, except areas specifically designated by the local government for heavy industrial use.

(b) A local government may not impose land use regulations, special fees or conditions on the establishment or maintenance of a child care center in an area zoned for commercial or industrial use that are more restrictive than those imposed for other uses in the same zone.

(5) Notwithstanding subsection (4) of this section, a local government may impose reasonable conditions upon the establishment or maintenance of a child care center in an area zoned for industrial uses.

(6) As used in this section, “reasonable conditions” includes, but is not limited to, siting restrictions for properties designated on the Department of Environmental Quality’s statewide list of contaminated properties as having known or suspected releases of hazardous substances.

SECTION 5. The amendments to ORS 329A.280 and 329A.440 by sections 3 and 4 of this 2022 Act become operative on July 1, 2024.

SECTION 6. This 2022 Act takes effect on July 1, 2022.