

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Education

BILL: PCS/ SB 202 (736346)

INTRODUCER: Appropriations Subcommittee on Education; Children, Families, and Elder Affairs Committee and Senator Bean

SUBJECT: Florida Association of Centers for Independent Living

DATE: November 19, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hendon</u>	<u>Hendon</u>	<u>CF</u>	Fav/CS
2.	<u>Sikes</u>	<u>Elwell</u>	<u>AED</u>	Recommend: FAV/CS
3.	_____	_____	<u>FP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 202 renames the James Patrick Memorial Work Incentive Personal Attendant Services Program as the James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program. The bill expands the use of the program to include services to disabled adults to assist them in securing and maintaining employment. The bill changes an existing oversight group to an oversight committee and revises its membership and responsibilities. The Florida Association for Independent Living (FACIL) will continue to provide administrative support from funds reserved for the program.

The bill has no fiscal impact on state funds.

The bill has an effective date of July 1, 2016.

II. Present Situation:

Sections 413.402 and 413.4021, F.S., establish and provide a specific funding source for a Personal Care Attendant program to provide personal care attendants to eligible persons with severe and chronic disabilities. The program was established as a pilot in 2002¹ and made

¹ Chapter 2002-286, L.O.F.

permanent and statewide in 2005.² Currently, there are 16 Centers for Independent Living operating in Florida.³ The most recent data show that the centers provided independent living services to 21,938 people from October 1, 2013 to September 30, 2014.⁴

Pursuant to s. 413.402, F.S., the Florida Endowment Foundation for Vocational Rehabilitation (also known as the Able Trust) is required to enter into an agreement with the FACIL to administer the program. The administrative expenses of the association are paid from funds deposited with the Able Trust pursuant to the Tax Collection Enforcement Diversion Program⁵ and the Motorcycle Specialty License Plate program.⁶

Persons eligible to participate in the program must:

- Be at least 18 years of age, a legal resident of this state and significantly and chronically disabled;
- Require a personal care attendant for assistance with or support for at least two activities of daily living such as bathing and dressing and as defined in s. 429.02, F.S.;
- Require a personal care attendant in order to maintain substantial gainful employment; and
- Be able to acquire and direct a personal care attendant.

Training for program participants on hiring and managing a personal care attendant must be provided by the FACIL. Additionally, the association coordinates with the Department of Revenue and the Florida Prosecuting Attorneys Association to select the judicial circuits in which to operate the program.

There are two funding sources for the Personal Care Attendant program:

- Tax Collection Enforcement Diversion Program; and
- Fees from the Motorcycle Specialty License Plate.⁷

Tax Collection Enforcement Diversion Program

In conjunction with the establishment of the Personal Care Attendant program, the Department of Revenue was directed, in cooperation with the Association for Centers for Independent Living and state attorneys, to select judicial circuits in which to operate a tax collection enforcement diversion program (“tax diversion program”) to collect unpaid sales taxes from delinquent business owners.⁸ Fifty percent of the collections from the tax diversion program are deposited into the operating account of the Able Trust to be used to operate the Personal Care Attendant program and to contract with the state attorneys participating in the tax diversion program.⁹ Sixteen centers in all 20 circuits participate in the tax diversion program.¹⁰

² Chapter 2005-172, L.O.F.

³ See http://rehabworks.org/indep_living.shtml (last visited on September 24, 2015).

⁴ See E-mail from Tonya Cooper, Legislative Affairs Director, Florida Department of Education (September 24, 2015) (on file with the Senate Committee on Children, Families, and Elder Affairs).

⁵ Section 413.4021(1), F.S.

⁶ Section 320.08068(4)(d), F.S.

⁷ Sections 413.4021(1) and 320.08068(4)(d), F.S.

⁸ Section 413.4021, F.S.

⁹ Section 413.4021(1), F.S. The contract amount for each state attorney cannot exceed \$50,000.

¹⁰ See http://rehabworks.org/cil_map.shtml (last visited on September 24, 2015).

Motorcycle Specialty (Bikers Care) License Plate Fees

The Department of Highway Safety and Motor Vehicles (DHSMV) offers a specialty license plate to any owner or lessee of a motorcycle who chooses to pay the additional cost.¹¹ The DHSMV collects an annual use fee of \$20 from the sale of each motorcycle specialty license plate and distributes the fees to the Able Trust. The Able Trust is permitted to retain a maximum of 10 percent of the funds for administrative costs and distribute the remaining funds as follows:

- Twenty percent to the Brain and Spinal Cord Injury Program Trust Fund;
- Twenty percent to Prevent Blindness Florida;
- Twenty percent to the Blind Services Foundation of Florida;
- Twenty percent to the Able Trust to support the Personal Care Attendant program; and
- Twenty percent to the Florida Association for Centers for Independent Living.¹²

III. Effect of Proposed Changes:

Section 1 amends s. 413.402, F.S., to rename the James Patrick Memorial Work Incentive Personal Attendant Services Program as the James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program. In addition to the provision of personal care attendants currently being offered to eligible participants, the bill authorizes other support and services necessary to maintain competitive and integrated employment or self-employment to be made available to eligible persons in the program.

This section clarifies eligibility requirements for participation in the program. A person must:

- Be at least 18 years of age, a legal resident of this state and significantly and chronically disabled.
- Be determined by a physician, psychologist, or psychiatrist, to require a personal care attendant for at least two activities of daily living as defined in s. 429.02, F.S.
- Require a personal care attendant and, as needed, other support and services to accept an offer of employment, commence working or maintain competitive and integrated employment.

The FACIL must provide training to program participants on the hiring and managing of a personal care attendant and other skills needed to effectively access and manage the support and services provided in the program. FACIL must provide administrative services to ensure the financial integrity of the program and must also provide administrative support to the revised Oversight Committee.

The bill changes the portion of the funds deposited in the Able Trust that are available to the FACIL to administer the program. Current law provides that the FACIL receive 12 percent of the funds paid to or on behalf of participants in the program to administer the program. The bill provides that costs associated with program administration and oversight in the annual operating budget approved by the Oversight Committee may not exceed 12 percent of the funds deposited

¹¹ Section 320.08068(2), F.S.

¹² Section 320.08069(4), F.S.

in the Able Trust for the program for the previous fiscal year or the budget approved for the previous fiscal year, whichever is greater.

The bill renames the existing oversight group as the Oversight Committee and changes its membership and responsibilities. The representatives of the Medicaid program within the Agency for Health Care Administration, the Able Trust, the FACIL, the Department of Revenue, and the Department of Children and Families are deleted. The bill adds a human resources professional or an individual who has significant experience managing and operating a business based in Florida appointed by the Speaker of the House of Representatives and a financial management professional appointed by the Governor. The appointing authority for the program participant is changed to the President of the Senate. The Oversight Committee is tasked with providing program oversight, approving the program's operating budget, advising FACIL on policies and procedures, approving the maximum monthly reimbursement available to program participants, and maintaining the schedule of eligible services for which program participants may be reimbursed.

Section 2 amends s. 413.4021, F.S., to increase the amount available to contract with the state attorneys participating in the tax collection enforcement diversion program to not more than \$75,000 per state attorney.

Section 3 amends s. 320.08068, F.S., to change the name of the entity receiving 20 percent of the funds distributed to the Able Trust from the sale of specialty motorcycle licenses to the James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program.

Section 4 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

PCS/CS/SB 202 expands the scope of services to disabled persons to include employment assistance to eligible program participants. The potential savings from increased employment of individuals with severe and chronic disabilities may be seen in reduced long-term care costs.

The bill also increases the amount of funds available to contract with the state attorneys' offices participating in the tax collection enforcement diversion program from \$50,000 to not more than \$75,000 for each office.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 413.402, 413.4021, and 320.08068.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Recommended CS/CS by Appropriations Subcommittee on Education on November 18, 2015:

The committee substitute:

- Replaces the term “competitive employment” with “competitive and integrated employment.”
- Renames the Advisory and Oversight Committee as the Oversight Committee, adds approving the maximum monthly reimbursement available to program participants as one of its responsibilities, and changes the membership of the committee to include:
 - The director of the Division of Vocational Rehabilitation or his or her designee;
 - A human resources professional or an individual who has significant experience managing and operating a business based in Florida, appointed by the Speaker of the House of Representatives;
 - A program participant, appointed by the President of the Senate;
 - The director of the advisory council on brain and spinal cord injuries or his or her designee; and
 - A financial management professional, appointed by the Governor.

- Specifies that the annual operating budget for the program may not exceed 12 percent of the funds deposited from identified sources with the Florida Endowment Foundation for Vocational Rehabilitation for the previous fiscal year or the budget approved for the previous fiscal year, whichever is greater.

CS by Children, Families, and Elder Affairs on October 8, 2015:

The committee substitute removes the bill's exemption from background screening for volunteers at a center for independent living. The CS revises the funding methodology for the administrative services provided by the Florida Association of Centers for Independent Living from 12 percent of expenditures to up to 12 percent of the program revenues. The association must have its budget for administrative services approved by the program's advisory committee. The CS renames the advisory committee and revises its membership.

B. Amendments:

None.