SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB's 2388 and 1946

SPONSOR: Committee on Children and Families, Senator Mitchell, and Senator Diaz-Balart

SUBJECT: Mental Health and Substance Abuse

DATE: March 23, 1999 REVISED: _____ _____ _____ _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Barnes	Whiddon	CF	Favorable/CS
2.			FP	
3.				
4.				
5.				

I. Summary:

Committee Substitute for SB's 2388 and 1946 authorizes the Department of Children and Family Services to use unit cost methods of payment in contracts for purchasing mental health and substance abuse services. The bill allows the department to reimburse actual expenditures for start-up contracts and fixed capital outlay contracts in accordance with contract specifications.

The bill provides rule-making authority to the department for establishing standards for contracting, budgeting, methods of payment, and the accounting of patient fees that are earned on behalf of a specific client.

The bill creates the Commission on Mental Health and Substance Abuse and specifies the duties of the Commission and the membership that is appointed by the President of the Senate, Speaker of the House of Representatives, and the Governor. The Legislature intends for this Commission to conduct a systematic review of the overall management of the state's mental health and substance abuse system for updating chapter 394, part IV, F.S. An interim report to the Governor and the Legislature is due no later than March 1, 2000, and the final report with statutory modifications is due to the Governor and the Legislature no later than December 1, 2000.

This bill substantially amends sections 394.66, 394.74, and 394.78, Florida Statutes.

II. Present Situation:

Part IV of ch. 394, F.S., is known as "The Community Alcohol, Drug Abuse, and Mental Health Services Act" and includes provisions for planning, defining, operating, financing, contracting, and managing the district alcohol, drug abuse, and mental health (ADM) services delivery system.

Contracting Provisions

Section 394.74, F.S., authorizes the department to contract for the establishment and operation of local ADM programs with hospitals, clinics, laboratories, institutions or other appropriate service providers. Since 1976, ADM has used a cost reimbursement contracting system where payment to providers is based on reimbursable expenditures. A study was completed in 1989 of the ADM financial reimbursement system by the department's Inspector General concluding that the cost reimbursement contracting policy in ch. 394, F.S., lacks accountability and recommended the performance contracting system with uniform accounting and service reporting and that performance based guidelines be established for providers. This recommendation to implement performance contracting was made again in 1990 in a legislatively mandated study of the ADM reimbursement system. Consistent with these studies, ch. 91-158, L.O.F., required that the department implement an integrated, unit cost based budgeting system and specified that ADM begin this system during FY 1991-92. Based on these recommendations and consistent with departmental policy to improve accountability, the department, in 1990, began requiring that providers report the numbers of units of services they provide and the identified client populations to be served.

Currently, there are generally three types of contracts used by the department to contract for ADM services: rate agreements, which specify the services to be delivered at an agreed upon cost for a referred individual or individuals; a purchase-of-service contract that purchases specific goods or services for a particular individual (frequently used for services for children); and a performance contract which indicates the number of units of various services to be delivered to established priority populations with specified outcomes.

The current contracting and reimbursement provisions in ch. 394, F.S., are not adequate to allow ADM to implement a performance-based contracting system that is based on unit cost budgeting and consistent with s. 216.0166, F.S., 1998 Supp., performance-based program budgets. Current law does not provide the statutory authority for ADM to promulgate the pertinent administrative rules for implementing this system.

Recommendations were made on February 18, 1999, by the department's Inspector General (investigation of Nova Southeastern University, Inc./Nova Community Mental Health Center) based on his findings that the ADM contracts were not in compliance with current statutory provisions in ch. 394, F.S., (cost reimbursement contracting) and were not properly monitored by the department's district staff. According to the ADM program office, efforts are now underway to enforce cost reimbursement contracting provisions requiring providers to submit the proper vouchers to the department to support expenditures. The department states that this additional requirement to performance contracts will cost the department approximately $1.5 million and the cost to the providers is estimated to be $7.5 million. These costs are associated with additional administrative positions in the 15 district offices for monitoring ADM contracts and for processing the additional invoices from the provider agencies. An additional administrative position will also be needed in each of the 400 contract agencies to prepare the invoices that support the expenditures.

Section 394.76(c), F.S., specifies that patient fees are eligible for state financial participation if these expenditures are approved in the district ADM plan required under s. 394.75, F.S. The department concludes that the district ADM plans are no longer required because the ADM planning councils were repealed in 1994. According to the department, there is no current provision in ch. 394, part IV, F.S., requiring that the ADM contracting system include patient fees that are paid to the provider on behalf of clients whose services are funded in whole or in part by the department. (The department's legal interpretation concerning ADM plans no longer being required under s. 394.75, F.S., is questionable.) For the past 2 years, the issue of patient fees has been addressed in the General Appropriation's Act. The General Appropriation's Act for FY 1998-99 specifies in Specific Appropriation 356 that client fees be included in the department's payment for services to state supported clients.

District ADM Plans

Section 394.75, F.S., mandates the development of a district alcohol, drug abuse, and mental health plan. According to the department, these required plans were discontinued when the ADM planning councils were repealed on July 30, 1994. Section 394.75, F.S., requires that the district ADM planning council prepare a combined district ADM plan on a biennial basis that reflects the needs and priorities of the district for ADM services and programs. (s. 19 of ch. 92-58, L.O.F., repealed s. 394.715, F.S., on July 30, 1994, eliminating the district ADM planning councils.)

The ADM planning councils were abolished in the same bill that created the district health and human services boards. It was envisioned by the 1992 Legislature that the district health and human services boards would assume the ADM planning functions of the district ADM planning councils. The health and human services boards are given the statutory authority in s. 20.19,(8) F.S., to conduct needs assessment and planning activities and to approve policies, procedures, and legislative budget requests for the department's program and services.

Priority Population Groups and the Comprehensive ADM Services

Section 394.675, F.S., describes the system of comprehensive ADM services: "primary care services," "rehabilitative services," and "preventive services." The more traditional services (e.g., inpatient, residential, outpatient, case management, day treatment) are listed. Current law does not include the support services such as supported housing, supported employment, drop-in or self-help centers, or respite services that are needed to help maintain the functioning of a mental health client in the community. In-home, therapeutic foster care, over-lay services, and transitional services for children and adolescents who have a serious emotional disturbance or substance abuse impairment are also not mentioned in the law.

Part IV of ch. 394, F.S., contains no clinical or financial criteria that define the clients who receive public ADM services. It is current policy of the department that ADM contract providers may serve any person who presents himself as needing services. Section 394.459(2)(a), F.S., specifies that a person may not be denied treatment for mental illness because of an inability to pay. Section 397.501(2)(a), F.S., states that service providers who receive state funds to provide substance abuse services may not, provided space and sufficient state resources are available, deny a client access to services based solely on inability to pay.

Section 394.75(4), F.S., directs the department to serve specific population groups. The district ADM plan must address how primary care services (e.g., emergency stabilization, inpatient, detoxification, residential, and case management) and other treatment services will be provided within available resources to these population groups. The population groups listed in the statute are broad and general and include obsolete terms for substance abuse impaired persons (e.g., "chronic public inebriates," "marginally functional alcoholics") instead of "substance abuse impaired" as defined in s. 397.311(16), F.S.

III. Effect of Proposed Changes:

CS/SB's 2388 and 1946 amends s. 394.74, F.S., specifying that the department use unit cost methods of payment in contracts for purchasing mental health and substance abuse services. The unit cost system must account for those patient fees that are paid on behalf of a specific client and those that are earned and used by the provider for those services funded in whole or in part by the department. This provision will result in more units of service being purchased for the person who is dependent on the public mental health or substance abuse system for his/her care and treatment.

The bill allows the department to reimburse actual expenditures for start-up contracts and fixed capital outlay contracts in accordance with contract specifications.

The department is given rule-making authority to establish standards for contracting, budgeting, methods of payment, and the accounting of patient fees that are earned on behalf of a specific client.

The bill creates the Commission on Mental Health and Substance Abuse and specifies the duties of the Commission and the membership that is appointed by the President of the Senate, Speaker of the House of Representatives, and the Governor. The Legislature intends for this Commission to conduct a systematic review of the overall management of the state's mental health and substance abuse system for updating chapter 394, part IV, F.S.

The bill specifies the areas to be reviewed: the unique mental health and substance abuse needs of older persons; access to, financing of, and the scope of responsibility in the delivery of emergency behavioral health care services; quality and effectiveness of the current comprehensive mental health and substance abuse delivery systems including the professional staffing and clinical structure and the responsibilities of all public and private providers; priority population groups for publicly funded mental health and substance abuse services; district mental health and substance abuse needs assessment and planning activities; and local government responsibilities for funding mental health and substance abuse services. The bill requires that at least one advisory committee be appointed of all state agencies involved in the delivery of mental health and substance abuse services, and consumers, family members of consumers, and current providers of public mental health and substance abuse services.

An interim report to the Governor and the Legislature is due no later than March 1, 2000, and the final report with statutory modifications is due to the Governor and the Legislature no later than December 1, 2000.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The implementation of this bill will not create additional costs for the ADM contract providers. However, if CS/SB's 2388 and 1946 fails to pass, the requirements of the Inspector General that cost reimbursement contracting requirements be imposed on the ADM performance based contracts, based on current law, will cost the ADM service providers currently under contract with the department approximately $7.5 million, according to estimates submitted by the department.

C. Government Sector Impact:

The implementation of this bill will not create additional costs for the department. However, if CS/SB's 2388 and 1946 fails to pass, the requirements of the Inspector General that cost reimbursement contracting requirements be imposed on the ADM performance based contracts, based on current law, will cost the department approximately $1.5 million, according to estimates submitted by the department.

There is an appropriation in the bill to the Executive Office of the Governor for the Commission on Mental Health and Substance Abuse for $75,000 from general revenue funds and $75,000 from administrative funds under Title XIX of the Social Security Act (Medicaid) for each of fiscal years 1999-2000 and 2000-2001.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.