

# 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: SB 272

SPONSOR: Senator Forman

SUBJECT: Persons With Disabilities

DATE: April 20, 2000                      REVISED: 04/25/00                      \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Barnes</u>	<u>Whiddon</u>	<u>CF</u>	<u>Fav/1 amendment</u>
2.	<u>Wilson</u>	<u>Wilson</u>	<u>GO</u>	<u>Fav/1 amendment</u>
3.	_____	_____	<u>FP</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

SB 272 creates the Office of Disability Coordination within the Executive Office of the Governor. An advisory board is specified that is comprised of the heads of all state agencies that have responsibility for or involvement with persons with mental, physical, or developmental disabilities. The bill specifies the duties of the Office of Disability Coordination. A report is due by December 1, 2001, and every year thereafter that documents the progress of the Office of Disability Coordination in carrying out its duties as specified in this bill. Prior to the 2002 Session, the Office of Program Policy Analysis and Governmental Accountability would conduct a comprehensive review of the Office of Disability Coordination and make a recommendation concerning the need to continue or discontinue the Office.

The bill includes an appropriation of \$125,000 from the general revenue fund for FY 2000-2001 for start-up and operating expenses.

This bill creates ss. 20.22 and 20.227, Florida Statutes.

## II. Present Situation:

Several agencies within Florida's governmental structure have statutory responsibility for providing services to persons with disabilities. Section 20.19, F.S., provides that the Department of Children and Family Services (department) serves persons with certain disabilities. The Developmental Services Program is assigned specifically to serve persons with a developmental disability as defined in s. 393.063, F.S., which includes a disorder or syndrome that is attributable to retardation, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.

The Alcohol, Drug Abuse, and Mental Health program in the department serves persons with a mental illness as defined in ch. 394, F.S., or with a substance abuse impairment as defined in ch. 397, F.S.

A program office is established for each program that is responsible for establishing program standards and performance objectives; reviewing, monitoring, and ensuring compliance with statewide standards and performance measures; assuring that programs are implemented according to legislative intent and as provided in state and federal laws, rules, and regulations; developing and coordinating training for service programs; coordinating program research; identifying statewide program needs and recommending solutions and priorities; developing resource allocation methodologies; and compiling reports, analyses, and assessment of client needs on a statewide basis.

Section 20.19, F.S., also includes provisions for outcome evaluation and program effectiveness and provides for the secretary of the department (with input from the district administrators and the district health and human services boards) to develop a legislative budget request in accordance with s. 216.023, F.S.

Other departments under the executive branch of government involved in providing services to persons with disabilities include the Agency for Health Care Administration, Department of Elderly Affairs, Department of Labor and Employment Security, Department of Corrections, Department of Health, Department of Juvenile Justice, Department of Education, and Department of Veterans Affairs. For example, the Agency for Health Care Administration administers the Medicaid program that provides medical and related services to persons with disabilities and conducts various licensing and regulatory functions for facilities and programs serving this population. The Department of Labor and Employment Security provides employment or workforce assistance to persons with disabilities. The Department of Elderly Affairs coordinates community-based services to many elderly persons who have physical or mental disabilities. Coordinating services for persons with disabilities is problematic because of the large number of state agencies that are responsible for providing services to this population.

### **III. Effect of Proposed Changes:**

SB 272 creates the Office of Disability Coordination within the Executive Office of the Governor and includes provisions for an executive director (and other staff) and an advisory board. The advisory board would be comprised of the Secretary of each of the following departments: Children and Family Services, Juvenile Justice, Corrections, Veterans Affairs, Elderly Affairs, Labor and Employment Security, Transportation, and Health; the Commissioner of Education; the Director of the Agency for Health Care Administration; and Executive Director of the Occupational Access and Opportunity Commission. If any agency head ceases to be an officer of the agency, the bill specifies that the agency deputy or the newly appointed agency head would fill the vacancy.

The bill provides for each member of the advisory board to appoint members of his or her staff to act as a working group for the advisory board that meets at least monthly. The duties of this working group are not clearly specified in the bill.

The bill states that the advisory board shall employ an executive director who has the authority to hire a person with expertise in information management systems and other professional, technical, legal, or clerical staff as needed. The bill allows the Office of the Governor to direct staff from the agencies represented on the advisory board to provide either part-time or full-time support and services to the Office of Disability Coordination. The authority of the Office of the Governor to

direct staff under the Commissioner of Education is in question. Even though the Governor chairs the State Board of Education, the staff of the Department of Education report directly to the Commissioner who is an elected official and Cabinet member.

The bill specifies that the staff of the office would be governed by the same rules as legislative personnel including the employer contributions to the Florida Retirement System.

The Office of Disability Coordination would work with all entities that deal with people who have disabilities, have physical or mental impairments that substantially limit one or more major life activities, who have a record of such impairments, or who are regarded as having such impairments. The bill provides no definition of “people who have disabilities” or “entities that deal with people who have disabilities.” Many agencies, organizations, and individuals provide services or interact with persons with disabilities.

Responsibilities of the Office of Disability Coordination include functions such as collecting specified information on persons being served and persons waiting for services; consolidating, coordinating, and reducing regulatory functions; maximizing federal funding; collecting and disseminating budget information; coordinating outcomes and accountability measures; coordinating the implementation of state and federal policies; and convening agencies that serve people with disabilities to review agencies’ missions, services, activities, and funding capabilities.

The bill specifies that the Office would maintain a continuing program of information management for the purpose of compiling, maintaining and disseminating information concerning met and unmet needs of persons with disabilities, names of providers that serve this population, costs of services, and the availability of services. The bill states that all entities that serve people who have disabilities must give the Office of Disability Coordination direct access to all of their data by January 1, 2001. The bill also states that the Office of Disability Coordination should not maintain or duplicate data that is currently maintained by any other entity.

Even though the bill states that confidential information must not be released that could identify an individual with a disability, there is no definition of the data that would be available to the Office of Disability Coordination. For example, one purpose of the Office of Disability Coordination is to examine the met and unmet needs of persons with disabilities. In conducting their research activities, the Office may access confidential information that is not statutorily authorized under the confidentiality provisions in other statutes (e.g., chs. 394, 393, and 397, F.S.).

Most of the responsibilities of the Office of Disability Coordination are duplicative of the statutory duties of the Department of Children and Family Services as they relate to services for persons with developmental disabilities and persons with mental illness. The bill states that the Office of the Governor would provide staff support to the Office of Disability Coordination from the agencies represented on the advisory board. There could be a conflict if these staff persons from the agencies are expected to review or critique a program or policy under the department’s statutory responsibility for which they have had a direct role in its development or implementation. The bill does not address how the Office of Disability Coordination would interface its activities with the department’s programs and service districts to accomplish a more efficient and better coordinated service delivery system.

The bill provides that the Office of Disability Coordination would serve as a clearinghouse for legislative budget requests and proposed policy changes. Section 216.023, F.S., states that the head of each state agency must submit a final budget request to the Legislature and the Governor based on the agency's independent judgment of its needs and consistent with prescribed budget instructions. The bill does not amend s. 216.023, F.S., to specify how the Office of Disability Coordination would fit into this prescribed process.

The bill specifies that the Office of Disability Coordination would coordinate outcomes and accountability measures, but there is no provision to clarify their role in the performance based program budgeting process contained in s. 216.0166, F.S.

The bill specifies that the Office of Disability Coordination would produce an annual report by December 1, 2001, and on that date ever year thereafter, electronically or in writing, to the Executive Office of the Governor, the President of the Senate, the Speaker of the House of Representatives, and other interested parties upon request. The report would document the progress made by the Office of Disability Coordination toward completing their responsibilities as specified in this bill, would include a description of the barriers preventing full collaboration among entities that serve people with disabilities, and would make recommendations on how to better serve persons with disabilities.

The bill specifies that before the 2002 Legislative Session, the Office of Program Policy Analysis and Governmental Accountability would conduct a comprehensive review of the Office of Disability Coordination on their progress toward achieving their established outcomes. The review would specify if it would be sound public policy to continue the Office of Disability Coordination and the consequences of discontinuing it.

The authority of the Office of Disability Coordination is limited. Its only real mechanism for change is to notify the Governor and the Legislature of an agency's noncompliance with its duties and the Governor may disqualify or suspend a noncompliant agency's ability to receive grants, awards, or funding. Its mission to stimulate coordination of services among the state agencies may be achieved more easily if the Office of Disability Coordination were strictly advisory. Also an advisory group may be of more value and able to provide better information to the Governor and the Legislature if the group included high functioning consumers of the agencies' services, family members of consumers, and providers under contract with the state agencies.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

It is plausible that provisions of the bill create an expansion of confidentiality due to the expanded authority of the office to receive protected information from other public and private sources. While the office is directed to maintain its confidential character, the statutes which specifically protect the information are not amended to add the office as an authorized

recipient of such confidential information. Removal of this provision from the bill would eliminate and legal difficulties associated with this expanded authority.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill appropriates from the General Revenue fund to the Executive Office of the Governor for FY 2000-2001 a total of \$600,000 as follows: \$250,000 for start up expenses for hardware, software, and office equipment; and \$350,000 for operating costs for salaries, benefits, and travel expenses. A removal of the provisions of the bill providing access to confidential information would eliminate about fifty percent of the fiscal impact.

Because the office staff have the same rights and benefits as provided to legislative staff, the amount of funds appropriated under this bill for salaries and benefits may be insufficient.

**VI. Technical Deficiencies:**

The amended bill places the office in the Department of Management Services (DMS) but amends a section of law in a chapter dealing with the Governor. The amendment needs to place the office in s. 20.22, F.S., as a subordinate unit of the DMS.

**VII. Related Issues:**

Use of the phrase “The staff of the office shall be governed by the same rules as are legislative personnel and shall receive the same rights and benefits” makes an uncomfortable linkage between two nominally dissimilar classification and personnel systems.

There is recent precedent for linking the benefits paid employees of the executive branch with those employed in the legislative branch. It is more common, however, for the salaries and benefits to be set within one of the three principal pay plans available to executive branch agencies: Career Service, Selected Exempt Service, or Senior Management Service.

The bill requires that “all entities that serve people who have disabilities must give direct access to all data . . .” This encompassing phrase makes no distinction between public or proprietary

information nor provides specific guidance on whom the affected parties are. Unless specifically amended otherwise, the office may not receive confidential information unless the particular statute protecting it names the office as an approved recipient.

It is unusual for a legislative support agency to be charged with helping find office space for an entity which is nominally made a part of the state's property management and leasing agency, the DMS.

### **VIII. Amendments:**

#1 by Children and Families:

Moves the Office of Disability Coordination from the Office of the Governor to the Department of Management Services; states that the Office of Disability Coordination may not interfere with the operations of any of the entities on the advisory board; clarifies that the Office of Disability Coordination reviews and comments on legislative budget requests from the various agencies; and clarifies that the only basis for noncompliance of duties is when information is not forthcoming from a member agency. (WITH TITLE AMENDMENT)

#1 by Governmental Oversight and Productivity:

This substitute amendment moves the Office of Disability Coordination from the Office of the Governor to the Department of Management Services and provides specific reference to s. 20.22, F.S.; states that the Office of Disability Coordination may not interfere with the operations of any of the entities on the advisory board; removes provisions pegging the salary levels to the legislative branch; clarifies that the Office of Disability Coordination reviews and comments on legislative budget requests from the various agencies; removes provisions giving the office access to confidential information and an appropriation for that purpose; and clarifies that the only basis for noncompliance of duties is when information is not forthcoming from a member agency. (WITH TITLE AMENDMENT)