STORAGE NAME: h0821.cfs.doc
DATE: February 6, 2002

HOUSE OF REPRESENTATIVES
COMMITTEE ON
CHILD & FAMILY SECURITY
ANALYSIS

BILL #: HB 821

RELATING TO: Substance Abuse and Mental Health Services

SPONSOR(S): Representative(s) Bean

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

(1) CHILD & FAMILY SECURITY
(2) HEALTH & HUMAN SERVICES APPROPRIATIONS
(3) COUNCIL FOR HEALTHY COMMUNITIES
(4)
(5)

I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

House Bill 821 removes the authority of the Department of Children and Family Services (DCF) to use unit cost methods of payment in contracts for the provision of substance abuse and mental health services. The bill specifies new requirements for contracts for the provision of substance abuse and mental health services and specifies duties of the department with respect to these contracts. The bill also requires the department to report every two years to the Legislature regarding these new contract activities and requirements. Among the new activities, the bill calls for the department to:

- Utilize multiyear contracts for large and established provider agencies.
- Require that contract funds be tied to individual client treatment or service plans and clinical status.
- Require that contract renewal be based primarily on customer and community satisfaction with services.
- Incorporate clinical care criteria, including evidence-based models and standards of care, into all existing and new contracts.
- Utilize electronic formats for all initial contract material and subsequent revisions or amendments— to include electronic signatures.
- Utilize existing database and financial software, in conjunction with Internet technology, to simplify and expedite contract data collection and reimbursement.

The bill also requires privatization of the preparation and administration of contracts to allow for competitive business-sector expertise to manage contract-related activities.

According to DCF, the fiscal impact of the bill is $20,898,849 in FY 2002/2003. Of this amount, $6,263,854 is non-recurring. The fiscal impact in FY 2003/2004 is $14,634,995.

If enacted into law, the bill takes effect July 1, 2002.

SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1.	Less Government	Yes [x]	No []	N/A []
2.	Lower Taxes	Yes []	No []	N/A [x]
3.	Individual Freedom	Yes []	No []	N/A [x]
4.	Personal Responsibility	Yes []	No []	N/A [x]
5.	Family Empowerment	Yes []	No []	N/A [x]

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Section 394.74, F.S.
Section 394.74, F.S., authorizes the department to contract for the establishment and operation of local mental health and substance abuse services with hospitals, clinics, laboratories, institutions or other appropriate service providers.

Contract Management in Department of Children and Families
As of December 31, 2001, the Department of Children and Families (DCF) has 598 contracts for mental health and substance abuse services with approximately 366 different providers. Providers may be not-for-profit or for-profit entities and include community mental health centers, substance abuse treatment and prevention centers, public and private psychiatric hospitals, and private mental health professionals. The dollar amount for these 598 contracts total $677,333,572.

Contract management is typically delegated from the Tallahassee headquarters office to the districts and performed by department staff. The most conventional organizational structure, as it relates to contract management, places contract managers under the appropriate district substance abuse-mental program office administrator. In some districts and regions contract management for mental health and substance abuse contacts has been placed in a centralize contract management unit that serves all DCF programs.

According to DCF, the majority of the department's contract managers continue to perform contract management as only a portion of their duties. The number of staff who report that they spend over 50 percent of their time managing mental health or substance abuse contracts equals a total of 31.05 FTEs. In addition there are other staff (20 different staff for a total of 3.95 FTEs) who spend less than 50 percent of their time managing mental health or substance abuse contracts, but who contribute to the overall effort managing contracts. Several districts report that they use OPS staff (11 different staff for a total of 7.8 FTEs) to assist with the management of mental health or substance abuse contracts. Some of these OPS staff are solely devoted to this function while others report only a percentage of their time being involved in mental health or substance abuse contract management.

The Department of Management Services maintains a website from which prospective vendors may search currently available bid opportunities. According to DCF, the department advertises all competitive solicitation on this website.

In 1999, DCF conducted a contract management training needs assessment. The needs assessment identified the following areas that necessitate ongoing training support:

- Negotiation skills
- Basic contract management
- Budget/pricing
- Auditing and monitoring
- Accessibility to information and tools to assist them perform their job duties.

To address these needs, a variety of strategies are used by DCF in the design and development of training curricula for contracting personnel. These strategies include, Web-based interactive courses, video teleconferencing, CD-ROM and classroom instructional materials.

The DCF Contracted Client Services Intranet website provides guidance, information and tools to assist in all aspects of contract management. The website provides links to the department's contracting manuals and publications as well as links to statutes and rules governing DCF and state contracting. The department has adopted and published a set of contract and financial rules in the Florida Administrative Code, ch. 65-E14, that provide the operational framework for contracting, budgeting, methods of payment to mental health and substance abuse providers.

Section. 216.023(4)(j), F.S.—Unit Cost Requirements
Section. 216.023 (4) (j), F.S., requires that an agency legislative budget request (LBR) must contain for each program unit costs for major activities for the budget entities as defined in the General Appropriations Act. This paragraph further states that it is the intent of the Legislature to use unit-cost data not only as a budgeting tool, but also as a policymaking tool and an accountability tool.

Unit Cost in the Department of Children and Families
The Department of Children and Families uses three types of contracts to contract for substance abuse and mental health services. The types of contracts include:

- Rate Agreements—contracts that specify the services to be delivered at an agreed upon cost for a referred individual or individuals
- Purchase-of-Service Contracts—contracts that specify goods or services for a particular individual
- Performance Contract or Unit Cost Contracts—contracts that indicate the number of units of various services to be delivered to established priority populations with specified outcomes.

Over 400 of the Department of Children and Families' contracts for mental health and substance abuse are awarded on a unit-cost basis. Providers are paid a fixed sum for the delivery of discrete service units. Providers assume the risk of performance under this type of pricing arrangement. The department determines service requirements for contracts and performance measures based in part on legislatively approved performance measures and standards (PB2).

In 1999 HB 2003 (99-396 L.O.F.) amended s. 394.74, F.S., to give the department authority to use unit cost methods of payment in contracts for purchasing mental health and substance abuse services. The changes also allowed the Department of Children and Family to reimburse actual expenditures for start-up contracts and fixed-capital-outlay contracts in accordance with contract specifications. It also gave 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.

OPPAGA - Commentary Report on PB2 (Report 01-05)
In a January 2001 Commentary Report on PB2 (Report 01-05), OPPAGA stated that the unit cost initiative in a performance-based policy framework can enable the Legislature to assess the efficiency of public programs. OPPAGA stated, "The system (unit cost) is under development, and is expected to improve with the implementation of the new state accounting system."

District ADM Plans
District ADM plans referenced in s. 397 (2) (a), F.S., were discontinued when the Alcohol, Drug Abuse and Mental Health planning councils were repealed on July 30, 1994.

Section 402.37, F.S.—DCF Contract Management Requirements
Section 402.37, F.S., delineates the general contract management requirements for the department. This provision requires the department to competitively procure any contract for client services under any of the following circumstances:

- If, after a reasonable opportunity, a contract provider fails to meet cost and performance standards established by the department.
- If a new program or service is authorized and funded and the annual contract value is $300,000 or more.
- The department has concluded, after reviewing market prices and available treatment options, that there is evidence that the department can improve the performance outcomes produced by its contract resources.

The department is authorized to execute multiyear contracts to make the most efficient use of the resources devoted to contract processing and execution.

The department has the authority to competitively procure and contract for systems of treatment or service that involve multiple providers, rather than procuring and contracting for treatment or services separately from each participating provider.

The department is required to cancel any contract if a service provider fails to meet performance standards set in the contract. The service provider would first be given a reasonable opportunity to address performance deficiencies; however, absent extenuating circumstances, the contract would be canceled and the department would be precluded for 2 years from entering a new contract for the same services with the provider.

If an adult substance abuse services provider fails to meet the performance standards established in the contract, the department may allow a reasonable period, not to exceed 6 months, for the provider to correct performance deficiencies. If the performance deficiencies are not resolved to the satisfaction of the department within 6 months, the department must cancel the contract with the adult substance abuse provider, unless there is no other qualified provider in the service area.

Behavioral Health Service Delivery Strategies Initiative

Committee Substitute for Committee Substitute for Senate Bill 1258 (ch. 2001-191 LOF) was enacted into law in 2001. The new law authorizes Department of Children and Family Service and the Agency for Health Care Administration to test and evaluate different strategies for contracting, coordinating, integrating, and managing behavioral health services (mental health services and substance abuse).

Under one of the service delivery strategies, the DCF is authorized to contract with a prepaid mental health plan that operates under s. 409.912, F.S., to be the managing entity. Under this strategy, the Department of Children and Family Services is not required to competitively procure those services and, notwithstanding other provisions of law, may employ prospective payment methodologies that the department finds are necessary to improve client care or institute more efficient practices.

Under the second service delivery strategy, the Department of Children and Family Services and the Agency for Health Care Administration are authorize to competitively procure a contract for the management of behavioral health services with a managing entity. The managing entity manages and coordinate all publicly funded behavioral health care services for a geographic area.

C. EFFECT OF PROPOSED CHANGES:

House Bill 821 removes the authority of the Department of Children and Family Services to use unit cost methods of payment in contracts for the provision of substance abuse and mental health services. The bill specifies new requirements for contracts for the provision of substance abuse and mental health services and specifies duties of the department with respect to these contracts. The bill privatizes the preparation and ongoing administration of contracts to allow for competitive business-sector expertise to manage contract activities. The bill also requires the department to report every two years to the Legislature regarding these new contract activities and requirements.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 394.74, F.S.

Subsection (2) is amended to removes the authority of the Department of Children and Family Services to use unit cost methods of payment in contracts for the provision of substance abuse and mental health services.

Subsection (4) is created to specify new requirements for contracts for the provision of substance abuse and mental health services and specifies duties of the department with respect to these contracts. It calls for the department to:

- Utilize multiyear contracts for large and established provider agencies.
- Require that contract funds be tied to individual client treatment or service plans and clinical status.
- Require that contract renewal be based primarily on customer and community satisfaction with services.
- Privatize the preparation and ongoing administration of contracts to allow for competitive business-sector expertise to guide and shape day-to-day management activities.
- Incorporate clinical care criteria, including evidence-based models and standards of care, into all existing and new contracts.

- Utilize electronic formats for all initial contract material and subsequent revisions or amendments, to include electronic signatures.
- Utilize existing database and financial software, in conjunction with Internet technology, to simplify and expedite contract data collection and reimbursement.
- Establish a district-level community contract advisory board, consisting of legal and business professionals, to provide input and recommendations regarding recruitment, selection, and retention of the most efficient and viable vendors.
- Monitor vendors primarily on the basis of measurable results and provide an annual report card for each vendor that is accessible to the general public and media.
- Designate any program or agency meeting established criteria as eligible to contract with the department subject to availability of funds and congruence with statewide or district plans.
- Ensure that all state and local funding partners are participating at statutorily required levels.

The new subsection also requires the department report every two years to the Legislature regarding these new contract activities and requirements

Section 2. If enacted into law, the bill takes effect on July 1, 2002.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

The major expenditures associated with this bill include:

- Additional department staff to provide oversight of privatized contract management system.
- Contracts with private contract administration and management providers.
- Hardware, electronic database, and financial management software.
- Conversion cost from unit cost contracting.

According to DCF, the fiscal impact of the bill is $20,898,849 in FY 2002/2003. Of this amount, $6,263,854 is non-recurring. The fiscal impact in FY 2003/2004 is $14,634,995.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

A new market opportunity would open for the private sector. The bill requires the privatization of the preparation, administration and management of contracts. Since the state currently conducts this activity, the current cost would shift from government to the private sector.

D. FISCAL COMMENTS:

The Department of Children and Families states that the proposed deletion of unit cost contracting by July 1, 2002, will cause a disruption in the provision of substance abuse and mental health services. According to the department, conversion of unit cost contracts to alternative contracting methods would place undue burden on and cost to the department with no corresponding benefit in service delivery or outcomes. The department further states that the deletion of unit cost contracting would also result in the loss of critical information the department currently receives from providers on the type of services to be delivered and utilization of each service and the type and actual cost of services delivered. The bill also proposes privatization of the preparation and administration of contracts to allow for competitive business-sector expertise to manage contract related activities.

III. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditures of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VI. SIGNATURES:

COMMITTEE ON CHILD & FAMILY SECURITY:

Prepared by:	Staff Director:
Robert Brown-Barrios	Robert Brown-Barrios