

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 475 w/CS Community-based Care

SPONSOR(S): Murman

TIED BILLS: **IDEN./SIM. BILLS:**

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|---|------------------|----------------|-----------------------|
| 1) <u>Future of Florida's Families</u> | <u>16 Y, 0 N</u> | <u>Preston</u> | <u>Liem</u> |
| 2) <u>Finance and Tax</u> | <u>20 Y 1 N</u> | <u>Monroe</u> | <u>Diez-Arguelles</u> |
| 3) <u>Human Services Appropriations</u> | <u>6 Y, 0 N</u> | <u>Ekholm</u> | <u>Ekholm</u> |
| 4) <u>Appropriations</u> | <u></u> | <u></u> | <u></u> |
| <u></u> | <u></u> | <u></u> | <u></u> |

SUMMARY ANALYSIS

The bill amends a number of sections of the Florida Statutes related to community-based care. Specifically, the bill does the following:

- Increases the ability of state agencies and local political subdivisions to achieve maximum federal matching of funds for local preventive services and local child development programs;
- Requires each contract with an eligible lead community-based provider to provide for the Department of Children and Family Services (the department) to make payment to the provider which includes a reasonable administrative cost;
- Provides for a reduction in the amount of funding that must be provided to a lead agency by a children's services council or local government entity in order for the council or entity to be eligible for a matching grant and removes the requirement that those funds be used for start up costs;
- Provides that when placement of a child in a family foster home will cause the total number of children in the home to exceed five, a pre-placement assessment by a family services counselor must be completed and approved by the supervisor before placement. An exception is made for sibling placements or for children with a previous placement in the home;
- Creates the Florida Child Welfare Loan Forgiveness Program and provides eligibility criteria;
- Provides that funds available for child welfare legal services may be transferred from the department to a community-based agency to enable the community-based agency to provide those legal services; and,
- Provides requirements relating to independent financial audits of community-based care programs.

The bill does not appear to have a fiscal impact on state or local governments.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0475e.ap.doc

DATE: April 16, 2003

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

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

B. EFFECT OF PROPOSED CHANGES:

Revenue Maximization

Congress appropriates funds annually to individual states for specific health and human service needs. Most of these funds are made available to the states on a matching basis. In some instances, the federal government may double the matching funds certified by the states. If the federal funds are appropriated on a matching basis and the states do not take advantage of the match, donor states like Florida return the funds to the federal government and the funds are reverted back to the federal government or redirected to better-performing states. While the Legislature has implemented strategies to draw down federal funds, nonetheless, the state of Florida has lost millions in federal funding because the state general revenue match is not available.

The concept of "revenue maximization" involves the development of strategies for the identification of federal matching dollars and the reimbursement for the broadest scope of eligible services and clients. Basically, revenue maximization results in a coordinated effort to use local matching dollars to draw down as much federal funding as possible to meet critical human service needs in local communities. The 2000 Census figures show that Florida receives a lower amount per person in federal revenue as compared to several other southeastern states. The state of Florida receives \$642.68 per person in federal funding as compared to \$789.05 per person in Georgia, \$1,091.48 per person in South Carolina, and \$1,067.30 per person in North Carolina.

In Florida, efforts to maximize revenue or increase federal matching requires legislative approval or budgetary authority. In addition, agencies incur administrative costs in their efforts to obtain federal matching funds. Some other states have implemented statewide revenue maximization legislation that requires state agencies to work collaboratively with local fund providers to achieve the maximum federal match for as many clients and human service needs as possible. The process for revenue maximization using local funds involves the following:

- A local government receives funds from private donors and funders;
- A local government then submits the information necessary to secure a match to a state agency;
- The state agency bills a federal agency showing the local funds as a required state match;
- The federal agency pays the federal share to the state agency; and,
- The state agency retains 5% for administrative costs and then forwards the funds to the local government for distribution.

Section 409.26731, Florida Statutes, currently authorizes the Department of Children and Family Services to certify local funds as state match for eligible Title IV-E expenditures. The bill extends current law to include all federal programs supporting the department.

In order to increase the ability of state agencies and local political subdivisions to achieve maximum federal matching of funds for local preventive services and local child development programs, the bill does the following:

- defines “agency” as any state agency involved in providing health, social, or human services, including, but not limited to, the Agency for Health Care Administration, the Agency for Workforce Innovation, the Department of Children and Family Services, the Department of Elderly Affairs, the Department of Juvenile Justice, and the Florida Board of Education and requires each agency to establish programs and mechanisms designed to maximize the use of local funding for federal programs in accordance with section 2. of the bill;
- requires that the use of local matching funds for purposes of section 2. of the bill is limited to public revenue funds of local political subdivisions, including, but not limited to, counties, municipalities, and special districts and that funds donated to local political subdivisions by private entities will be considered as public revenue funds for the purpose of matching federal funding to the extent permitted by federal law;
- provides that any federal reimbursement received as a result of certification of local matching funds must, unless specifically prohibited by federal law, be returned by check or wire transfer to the local political subdivision that provided the funding and provides that the local political subdivision must be provided with a specified annual accounting of federal reimbursements;
- provides that a state agency may not consider the receipt of local funds as a factor in developing that agency’s annual operating budget allocation methodology or formula or any subsequent budget amendment allocations or formula;
- requires each agency to work with the local political subdivisions to modify any state plans to seek and implement federal waivers, as necessary, to implement the act. If modifications or waivers require legislative approval, the agency shall draft the legislation and present it to the Speaker of the House of Representatives, the President of the Senate, and the respective committee chairs of the Senate and House of Representatives by January 1, 2004, and, as necessary, annually thereafter;
- allows each agency to deduct not more than 5 percent of the total federal reimbursement funding to be provided to the local political subdivision for administrative costs before those funds are distributed to a local political subdivision, except as otherwise provided by law; and,
- requires a report documenting the specific activities undertaken during the previous fiscal year under this act to be submitted by an agency on an annual basis to the Governor, the Speaker of the House of Representatives, and the President of the Senate no later than January 1 and specifies what is to be included in the report.

Administrative Costs

Section 409.1671(i)(a), Florida Statutes, requires a statewide plan to accomplish privatization of foster care and related services:

... This plan must be developed with local community participation, including, but not limited to, input from community-based providers that are currently under contract with the department to furnish community-based foster care and related services, and must include a methodology for determining **and transferring all available funds**, including federal funds that the provider is eligible for and agrees to earn and that portion of general revenue funds which is currently associated with the services that are being furnished under contract. The methodology must provide for the **transfer of funds appropriated and budgeted** for all services and programs that have been incorporated into the project, including all management, capital (including current furniture and equipment), and **administrative funds** to accomplish the transfer of these programs...

The bill provides redundant language related to payments to the providers that include administrative costs.

Community-based Agency Audits

Section 409.1671, Florida Statutes, requires that each program that contracts with a community-based agency must undergo an annual evaluation by the department and that the department must submit an annual report to the Legislature, the minority leader of each house, and the Governor relating to quality performance, the attainment of outcome measures, and cost efficiency. The bill requires that community-based agencies be evaluated by an independent financial audit and that the department use that audit to the extent possible to reduce the number of audits for the agencies and programs being evaluated.

Community Partnership Matching Grant

Section 409.16745, Florida Statutes, currently contains provisions requiring a children's services council or other local government entity to make a financial commitment to a community-based lead agency of at least \$825,000 in start up funds in order to be eligible for a community partnership matching grant. The bill reduces the level of commitment to \$250,000 and eliminates the requirement that the monies be used for start up.

Comprehensive Behavioral Health Assessment

Section 409.175, Florida Statutes, provides that in cases where the total number of children in a family foster home exceeds five, including the children of the family, a comprehensive behavioral health assessment of each child to be placed in that home must be completed prior to the placement of additional children in the home. The assessment must comply with Medicaid rules and regulations.

The department's operating procedure, CFOP 175-64, relating to Family Foster Home Waivers, states that the total number of children who may live in a family foster home is five (5). All children living in the home are to be considered, including biological and adopted children. The procedure also contains a process for a waiver to be obtained in order to allow more than a total of five (5) children in a family foster home, but there is no mention of a comprehensive behavioral health assessment.

The bill provides for a pre-placement assessment by a family services counselor and approval by the counselor's supervisor before a child can be placed in a family foster home if that placement will cause the total number of children in the home to exceed five. An exception is made for sibling placements and children who have had a previous placement in the home.

C. SECTION DIRECTORY:

Section 1. Creates §402.401, Florida Statutes, to establish the Florida Child Welfare Loan Forgiveness Program to be administered by the Department of Education and to provide eligibility criteria.

Section 2. Creates §409.033, Florida Statutes, relating to maximization of local matching revenues, to increase the ability of state agencies and local political subdivisions to achieve maximum federal matching of funds for local preventive services and local child development programs.

Section 3. Amends §409.1671, Florida Statutes, relating to foster care and related services, to provide that funds available for child welfare legal services may be transferred from the department to a community-based agency to enable the community-based agency to provide those legal services, to provide that a services contract with a lead community-based provider cannot be signed until a technical assistance team has assessed the agency's readiness to assume contract responsibilities, to provide that contracts with an eligible community-based provider must include payment of administrative costs, and to provide for independent financial audits of community-based care programs.

Section 4. Amends §409.16745, Florida Statutes, relating to the community partnership grant program, to provide for a reduction in the amount of funding that must be provided to a lead agency by a children's services council or local government entity in order for the council or entity to be eligible for a matching grant and to remove the requirement that those funds be used for start up costs.

Section 5. Amends §409.175, Florida Statutes, related to licensure, to provide that when placement of a child in a family foster home will cause the total number of children in the home to exceed five, a pre-placement assessment must be completed by a family services counselor and approved by the counselor's supervisor, before the placement is made. An exception is provided for sibling placements and for children who have been placed in the home previously.

Section 6. Provides for an effective date of July 1, 2003.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: The revenue maximization language allows a state agency to retain 5 percent of the total federal reimbursement funding to be provided to the local political subdivision to cover administrative costs.
2. Expenditures: The Department of Education has indicated that there would be no administrative costs for the department to administer the Florida Child Welfare Loan Forgiveness Program created by the bill. The duties would be absorbed by current staff and system capabilities. One million dollars in general revenue is contained in House Bill 1789 in the Department of Children and Families to support loan forgiveness payments (Specific Appropriation #286A), and that appropriation is contingent upon legislation becoming law authorizing the program.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: The revenue maximization language contained in the bill has the potential to increase the amount of funds available to address critical, local health and human service needs. As more federal matching dollars are received as a result of certifying local funding, these funds will be distributed to eligible programs.
2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.

D. FISCAL COMMENTS: None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: Not applicable.
2. Other: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On **March 25, 2003**, the **Committee on the Future of Florida's Families** adopted a strike-all amendment. This analysis is drafted to the bill as amended. The major changes made by the amendment are as follows:

- Added a provision creating the Florida Child Welfare Loan Forgiveness Program and providing eligibility criteria.

- Removed the provision lowering the amount of liability coverage that staff of eligible lead community-based providers or their subcontractors who transport children in their personal automobiles in order to carry out their job responsibilities are required to carry.
- Added a provision that funds available for child welfare legal services may be transferred from the department to a community-based agency to enable the community-based agency to provide those legal services.
- Added language to provide that a services contract with a lead community-based provider cannot be signed until a technical assistance team has assessed the agency's readiness to assume contract responsibilities.
- Clarified language relating to independent financial audits of community-based care programs.
- Clarified the type of assessment and who can conduct the assessment, if placement of a child in a family foster home will cause the total number of children in the home, including the family's own children, to exceed five.

On **April 15, 2003**, the **Human Services Appropriations Subcommittee** adopted four amendments to HB 475/with CS. These amendments are summarized briefly below:

- **Reimbursement Subject to Budget and Release**--Provides that the federal reimbursement owed by the state to a local agency be returned within a 30 day period, subject to appropriation and release. This provides that the state agency's payment is subject to the availability of appropriation and release of budget in the agency to make the payment to the local entity.
- **Process by Which to Transfer Administration of Services to Lead Agencies**--Specifies that services are not to be transferred to a community-based care lead agency until DCF has determined the district is ready to hand off the services and the lead agency is ready to handle the services. A written report is to be prepared by the department and a readiness assessment is to be conducted. Additionally, the department is to prepare an annual report on the state of readiness of each district in the process of moving to the community based care model.
- **Revenue Maximization not to Divert Existing Funds from State Agencies**--Provides intent language that revenue maximization shall not divert existing funds from state agencies that are currently using local funds to maximize matching federal and state funds to the greatest extent possible.
- **Exemption to Privatization of Foster Care**--Provides an exemption to the provision of the law related to privatization of foster care and family care services to allow a county with at least 40 licensed residential group care beds and which provides at least \$2.0 million annually in county general revenue funds to continue to contract directly with the state and be exempt from the provisions of this section. (Amendment to the original Amendment was adopted.)