

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 333 Developmental Disabilities Institutions
SPONSOR(S): Healthcare Council; Nehr
TIED BILLS: **IDEN./SIM. BILLS:** SB 862

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Healthy Families</u>	<u>6 Y, 0 N</u>	<u>Schoolfield</u>	<u>Schoolfield</u>
2) <u>Healthcare Council</u>	<u>15 Y, 0 N, As CS</u>	<u>Schoolfield</u>	<u>Gormley</u>
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The bill requires the Agency for Persons with Disabilities to prepare plans for review and comment if there is an announced intent to close or reduce census by 20 percent or more at either Tacachale or Sunland Developmental Disabilities Institution. The plans must ensure proper notification to residents and others, involvement of residents in planning their transition, and planning for quality and safety of residents during a transition from the institution. A detailed description of the required report/plan is included in the bill.

The bill requires the Governor to approve or disapprove any closure or reduction in census plans, after receiving comments from the Speaker of the House and President of the Senate.

The bill also requires quarterly reports by the agency on progress of closure or reduction in census at an institution.

The effective date of the bill is July 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard Individual Liberty: The bill seeks to ensure individuals have adequate choices of residential setting and services when institutions for persons with developmental disabilities are closed or their populations significantly reduced.

Empower Families: The bill requires the Agency for Persons with Developmental Disabilities to ensure residents and their families, are informed and participate in the planning to receive services as they go through transition to another placement when the institutions where they live is closed or significantly reduced in population.

B. EFFECT OF PROPOSED CHANGES:

This bill requires the Agency for Persons with Disabilities to provide a report to the Senate President, Speaker of the House and the Governor subsequent to an announcement of intent to close or reduce census by 20 percent or more at either the Sunland (Marianna, FL) or Tacachale (Gainesville, FL) developmental disabilities institution. The Senate and House will have 90 days to provide comments prior to the Governor's decision on whether to approve or disapprove plans to close or reduce census at the developmental disabilities institution.

The bill also expresses Legislative intent that the Agency provide timely notification to residents, guardians and others when there is an intent to close or reduce census. The intent language also directs the agency to provide assurances to residents that they will be involved in planning their transition, that the planning process will be thorough and that the agency will ensure health and safety of the residents during transition.

The bill specifies that the report include at a minimum, plans to address:

- notification of residents, family, guardian or designees regarding closure or census reduction;
- education of institution staff, residents, families and guardians about placement opportunities in the community;
- providing services and residential placements to residents who move to the community;
- assessing the capacity of providers in the community to meet service needs for residents who transition;
- recruitment of providers to ensure adequate capacity in the community;
- monitoring of residents to ensure quality and safety after they leave the institution ;
- the process for support plan development;
- the appeals process for residents and guardians on the support plan process;
- adjustments to staffing levels at the institutions as they are closed or reduced;
- the timeline for closure or reduction including a financial plan;
- ongoing communication with interested parties during closure or reduction;
- the responsibilities of each agency involved and the disposition of property at the physical plant.

This bill also requires quarterly progress reports by the agency on closure or census reduction at a developmental disability institution. The content of the quarterly report is specified in the bill.

PRESENT SITUATION

The Agency for Persons with Disabilities currently operates three developmental disabilities institutions. These include Tacachale in Gainesville, Sunland in Marianna and Gulf Coast Center in Leigh High Acres. As of October 2007, there were 866 people residing in these facilities. Gulf Coast Center is currently being phased down to closure by June 30, 2010. Another institution, the Community of Landmark in Miami-Dade was closed in 2005. The Agency for Persons with Disabilities reports there are no plans to close the two remaining developmental disabilities institutions (Sunland and Tacachale).

The closure of Landmark in Miami-Dade County in 2005, and the planned closure of Gulf Coast Center by 2010, are part of the agency's 1998 settlement agreement in the federal *Brown v. Bush* lawsuit initiated by the Advocacy Center for Persons with Disabilities. The agency developed detailed plans for the closure of Landmark and Gulf Coast to ensure the health and safety of residents. The Legislative oversight for the closure of these institutions is currently through the budget process. During the closure process for Gulf Coast Center and Landmark the downsizing of these facilities was reflected in reductions in appropriations and personnel in the agency's budget request and subsequent Legislative appropriations.

The choice of where to live is an important part of the Medicaid program which provides the federal funding to these institutions. Federal law gives residents the right to choose the treatment setting. The closure of an institution does not obligate an individual or guardian to choose a home and community-based waiver placement if the individual, in fact, wants an institutional placement. In addition, federal law, 42 C.F.R. 431.220, provides that an individual retains the right to challenge placement decisions through the fair hearing process. If a resident of an institution that is closing has the desire to remain in an institution, they would have the choice of other public or private institutions for persons with developmental disabilities. The location of an institutional placement could be anywhere in the state and would depend on vacancies and the ability of the specific institution to adequately meet the needs of the resident.

Florida Statute 393.062 states that "The Legislature finds and declares that existing state programs for the treatment of individuals with developmental disabilities, which often unnecessarily place clients in institutions, are unreasonably costly, are ineffective in bringing the individual client to his or her maximum potential, and are in fact debilitating to many clients" The Office of Program Policy Analysis and Government Accountability (OPPAGA) of the Florida Legislature conducted a review of the Developmental Disabilities Program in 2000 (Report No: 00 -17). The report found "Many clients who currently live in state institutions and private intermediate care facilities could be appropriately served in less costly settings, saving about \$35 million per year. Closing one or more of the state institutions could save another \$4 million annually, although some investment in community-based services would be needed to expand services for these clients."

C. SECTION DIRECTORY:

Section 1. Creates section 393.35, Florida Statutes, regarding closure of developmental disabilities institutions.

Section 2. Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

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:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

The Healthcare Council met on March 25, 2008 and adopted 5 amendments to the bill as follows:

Amendment 1: Conforms to Senate bill CS/SB 862 and removes Legislature as an entity that announces closure of a Developmental Disabilities Institution

Amendment 2: Conforms to Senate bill CS/SB 862 and removes Legislature as an entity that announces closure of a Developmental Disabilities Institution

Amendment 3: Conforms to Senate bill CS/SB 862 and deletes a redundant requirement for a plan of services which is covered elsewhere in the bill.

Amendment 4 This is a technical change that makes bill text identical to Senate bill CS/SB 862.

Amendment 5 Conforms to Senate bill CS/SB 862 and deletes text that is duplicative of an existing federal due process requirement.

The bill was reported favorably as a Council Substitute. The analysis reflects the Council Substitute.