

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Fiscal Policy

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BILL: CS/CS/SB 202

INTRODUCER: Fiscal Policy Committee (Recommended by Appropriations Subcommittee on Education); Children, Families, and Elder Affairs Committee; and Senator Bean

SUBJECT: Florida Association of Centers for Independent Living

DATE: January 28, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hendon</u>	<u>Hendon</u>	<u>CF</u>	<u>Fav/CS</u>
2.	<u>Sikes</u>	<u>Elwell</u>	<u>AED</u>	<u>Recommend: Fav/CS</u>
3.	<u>Pace</u>	<u>Hrdlicka</u>	<u>FP</u>	<u>Fav/CS</u>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 202 renames the James Patrick Memorial Work Incentive Personal Attendant Services Program as the James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program. The bill expands the use of the program to include services to adults with disabilities to assist them in securing and maintaining employment. The bill changes an existing oversight group to an oversight council and revises its membership and responsibilities. The Florida Association for Independent Living will continue to provide administrative support from funds reserved for the program. The bill also increases the amount available to each state attorney that participates in the tax collection enforcement diversion program.

The bill has no fiscal impact on state funds.

**II. Present Situation:**

**The James Patrick Memorial Work Incentive Personal Attendant Services Program**

The James Patrick Memorial Work Incentive Personal Attendant Program (program) was established to provide personal care attendants to eligible persons with severe and chronic

disabilities of all kinds.<sup>1</sup> The program was established as a pilot in 2002<sup>2</sup> and made permanent and statewide in 2005.<sup>3</sup> Currently, the Florida Endowment Foundation for Vocational Rehabilitation (also known as the Able Trust)<sup>4</sup> is required to *enter* into an agreement with the Florida Association of Centers for Independent Living (FACIL) to administer the program.<sup>5</sup>

### ***Eligibility***

Persons eligible to participate in the program must:

- Be at least 18 years of age, a legal resident of this state, and significantly and chronically disabled;
- Require a personal care attendant for assistance with or support for at least two activities of daily living, such as bathing and dressing, as defined in s. 429.02, F.S.;
- Require a personal care attendant in order to accept a job or maintain substantial gainful employment; and
- Be able to acquire and direct a personal care attendant.<sup>6</sup>

### ***Training***

The FACIL must provide training to program participants on hiring and managing a personal care attendant. The FACIL must also, in cooperation with an oversight group, adopt and revise policies and procedures governing the personal care attendant program and the training program.<sup>7</sup>

### ***Oversight Group***

The purpose of the oversight group is to assure that the program is delivered in an appropriate, fair, and consistent manner.<sup>8</sup> The oversight group includes, but is not limited to, the following members:

- A member of the FACIL;
- A person who is participating in the program;
- One representative from the Department of Revenue;
- One representative from the Department of Children and Families;
- One representative from the Division of Vocational Rehabilitation in the Department of Education;
- One representative from the Medicaid Program in the Agency for Health Care Administration;
- One representative from the Florida Endowment Foundation for Vocational Rehabilitation; and

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<sup>1</sup> Section 413.402, F.S.

<sup>2</sup> Chapter 2002-286, L.O.F.

<sup>3</sup> Chapter 2005-172, L.O.F.

<sup>4</sup> See s. 413.615(5), F.S. The Able Trust is the not for profit direct support organization that is also known as the Florida Endowment Foundation for Vocational Rehabilitation. More information on the Able Trust can be found at: <http://www.abletrust.org/> (last visited Jan. 21, 2016).

<sup>5</sup> Section 413.402, F.S.

<sup>6</sup> Section 413.402(1), F.S.

<sup>7</sup> Section 413.402(2)(a), F.S.

<sup>8</sup> See Florida Association of Centers for Independent Living, Jimmy Patrick Memorial Work Incentive Program PAS Program Overview, available at: <http://floridacils.org/JPPASOverview.html> (last visited Jan. 21, 2016).

- One representative from the Brain and Spinal Cord Injury Program in the Department of Health.

### **Program Funding**

There are two funding sources for the program:

- Tax Collection Enforcement Diversion Program;<sup>9</sup> and
- Fees from the motorcycle specialty license plate.<sup>10</sup>

### ***Tax Collection Enforcement Diversion Program***

In conjunction with the establishment of the personal care attendant program, the Department of Revenue was directed, in cooperation with the FACIL and the Florida Prosecuting Attorneys Association, to select judicial circuits in which to operate a tax collection enforcement diversion program (tax diversion program) to collect unpaid sales taxes from delinquent business owners.<sup>11</sup> Fifty percent of the collections from the tax diversion program are deposited into the special reserve account of the Florida Endowment Foundation for Vocational Rehabilitation (Able Trust) to be used to operate the personal care attendant program and to contract with the state attorneys participating in the tax diversion program.<sup>12</sup> Currently, funds can be used to contract with state attorneys who participate in the tax diversion program in an amount not to exceed \$50,000 for each state attorney. Currently, there are 7 state attorney's offices participating in the tax diversion program.<sup>13</sup>

### ***Motorcycle Specialty (Bikers Care) License Plate Fees***

The Department of Highway Safety and Motor Vehicles (DHSMV) offers a specialty license plate to any owner or lessee of a motorcycle who chooses to pay the additional cost. The DHSMV collects an annual use fee of \$20 from the sale of each motorcycle specialty license plate and distributes the fees to the Able Trust as custodial agent.<sup>14</sup> The Able Trust is permitted to retain a maximum of 10 percent of the funds for administrative costs and distribute the remaining funds as follows:

- Twenty percent to the Brain and Spinal Cord Injury Program Trust Fund;
- Twenty percent to Prevent Blindness Florida;
- Twenty percent to the Blind Services Foundation of Florida;
- Twenty percent to the Foundation for Vocational Rehabilitation to support the personal care attendant program; and
- Twenty percent to the FACIL.<sup>15</sup>

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<sup>9</sup> Section 413.4021(1), F.S.

<sup>10</sup> Section 320.08068(4)(d), F.S.

<sup>11</sup> Section 413.4021, F.S.

<sup>12</sup> Section 413.4021(1), F.S.

<sup>13</sup> *Infra* note 20.

<sup>14</sup> Section 320.08068, F.S.

<sup>15</sup> Section 320.08068(4), F.S.

### *Administrative Expenses*

FACIL program administrative expenses are paid from funds deposited with the Florida Endowment for Vocational Rehabilitation (Able Trust) pursuant to the Tax Collection Enforcement Diversion Program<sup>16</sup> and the Motorcycle Specialty License Plate program.<sup>17</sup> Currently, FACIL receives 12 percent of the funds paid to or on behalf of participants from funds deposited with the Able Trust to administer the program.<sup>18</sup>

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

#### **The James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program**

**Section 1** amends s. 413.402, F.S., to rename the James Patrick Memorial Work Incentive Personal Attendant Services Program as the James Patrick Memorial Work Incentive Personal Attendant Services *and Employment Assistance Program*. In addition to the provision of personal care attendants currently offered to eligible participants, the bill authorizes other support and services necessary to maintain competitive and integrated employment or self-employment to be made available by the program. The bill requires the Florida Endowment Foundation for Vocational Rehabilitation (Able Trust) to *maintain* an agreement with the FACIL to administer the program.

This bill defines the term “competitive and integrated employment” to mean employment in the public or private sector in which the employee earns comparable wages and benefits, commensurate with his or her qualifications and experience, and works in comparable conditions to those experienced by the general workforce in that industry or profession.

#### *Eligibility*

This bill revises eligibility requirements for participation in the program to include persons who:

- Require a personal care attendant *and, as needed, other support and services* to accept an *offer of employment and commence working or maintain competitive and integrated employment*; and
- Have the ability to acquire and direct *the support and services provided in the program, including the services of a personal care attendant*.

#### *Training*

The bill expands the types of training the FACIL must provide to program participants to include hiring and *management of a personal care attendant and other skills needed to effectively access and manage the support and services provided in the program*.

#### *Oversight Council*

The bill renames the existing oversight group as the oversight council and changes its membership and responsibilities. Under the bill the oversight council must include:

<sup>16</sup> Section 413.4021(1), F.S.

<sup>17</sup> Section 320.08068(4)(d), F.S.

<sup>18</sup> Section 413.402, F.S.

- The director of the division or his or her designee;
- A human resources professional or an individual who has significant experience managing and operating a business based in Florida recommended by the Florida Chamber of Commerce and appointed by the Governor;
- A program participant appointed by the Secretary of Health or his or her designee;
- The director of the advisory council on brain and spinal cord injuries or his or her designee;
- A financial management professional appointed by the Governor;
- The director of the Florida Endowment Foundation for Vocational Rehabilitation (Able Trust) or his or her designee; and
- The director of the FACIL or his or her designee.

Representatives of the Medicaid program within the Agency for Health Care Administration, the Department of Revenue, and the Department of Children and Families are removed from membership.

Additionally, the bill provides that the oversight council is established adjunct to Department of Education for the purpose of making recommendations to the board of directors of the FACIL on the following:

- The program's annual operating budget for operations, administration, and oversight;
- FACIL policies and procedures;
- The maximum monthly reimbursement available to program participants; and
- The schedule of eligible services for which program participants may be reimbursed.

The bill specifies that the oversight council is not subject to the control of or direction by the DOE, and the DOE is not responsible for providing staff support or paying any expenses incurred by the oversight council in the performance of its duties.

## **Program Funding**

### ***Administrative Expenses***

The bill requires the FACIL to provide administrative and technical support services to the program and implement controls to ensure the financial integrity of the program.

The bill changes the portion of the funds deposited with the Able Trust that are available to the FACIL to administer the program. Current law provides that the FACIL receives 12 percent of the funds paid to or on behalf of participants in the program to administer the program. The bill provides that costs associated with program administration, operations, and oversight in the annual operating budget approved by the board of directors of the FACIL may not exceed 12 percent of the funds deposited with the Florida Endowment Foundation for Vocational Rehabilitation (Able Trust) for the program for the previous fiscal year or the budget approved for the previous fiscal year, whichever is greater.

***Tax Collection Enforcement Diversion Program***

**Section 2** amends s. 413.4021, F.S., to increase the amount available to contract with the state attorneys participating in the tax collection enforcement diversion program to not more than \$75,000 per state attorney.

***Motorcycle Specialty (Bikers Care) License Plate Fees***

**Section 3** amends s. 320.08068, F.S., to reflect the name change of the James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program and to clarify that 20 percent of the funds from the sale of specialty motorcycle licenses must be distributed to the *Florida Endowment* Foundation for Vocational Rehabilitation (Able Trust).

**Section 4** provides an effective date of July 1, 2016.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

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

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The bill expands the scope of services to persons with disabilities to include employment assistance to eligible program participants. The potential savings from increased employment of individuals with severe and chronic disabilities may be seen in reduced long-term care costs.

The bill also increases the amount of funds available to contract with the state attorneys' participating<sup>19</sup> in the tax collection enforcement diversion program from \$50,000 to not more than \$75,000 for each state attorney.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 413.402, 413.4021, and 320.08068.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS/CS by Fiscal Policy on January 27, 2016:**

The committee substitute:

- Replaces the term “competitive employment” with “competitive and integrated employment.”
- Renames the Advisory and Oversight Committee as the Oversight Council and establishes the council adjunct to the Department of Education.
- Requires the council to make certain recommendations and changes the membership of the council to include:
  - The director of the division or his or her designee;
  - A human resources professional or an individual who has significant experience managing and operating a business based in Florida recommended by the Florida Chamber of Commerce and appointed by the Governor;
  - A program participant, appointed by the Secretary of Health or his or her designee;
  - The director of the advisory council on brain and spinal cord injuries or his or her designee;
  - A financial management professional appointed by the Governor;
  - The director of the Florida Endowment Foundation for Vocational Rehabilitation or his or her designee; and
  - The director of the Florida Association of Centers for Independent Living or his or her designee.
- Specifies that the annual operating budget for the program may not exceed 12 percent of the funds deposited from identified sources with the Florida Endowment

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<sup>19</sup> Currently there are 7 state attorney's offices participate in the program: Jacksonville, Clearwater, Miami, Tampa, West Palm Beach, Fort Lauderdale, and Fort Meyers. *See* Revenue Estimating Conference, Tax Collection Enforcement Diversion Program (Sept. 3, 2015), Executive Summary.

Foundation for Vocational Rehabilitation for the previous fiscal year or the budget approved for the previous fiscal year, whichever is greater.

**CS by Children, Families, and Elder Affairs on October 8, 2015:**

The committee substitute removes the bill's exemption from background screening for volunteers at a center for independent living. The CS revises the funding methodology for the administrative services provided by the Florida Association of Centers for Independent Living from 12 percent of expenditures to up to 12 percent of the program revenues. The association must have its budget for administrative services approved by the program's advisory committee. The CS renames the advisory committee and revises its membership.

**B. Amendments:**

None.