

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.)

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

BILL: CS/SB 202

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Bean

SUBJECT: Florida Association of Centers for Independent Living

DATE: January 26, 2015

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Hendon	Hendon	CF	Fav/CS
2. Sikes	Elwell	AED	Recommend: Fav/CS
3. Pace	Hrdlicka	FP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

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 disabled adults to assist them in securing and maintaining employment. The bill changes an existing oversight group to an advisory and oversight committee 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.¹ The program was established as a pilot in 2002² and made permanent

¹ Section 413.402, F.S.

² Chapter 2002-286, L.O.F.

and statewide in 2005.³ Currently, the Florida Endowment Foundation for Vocational Rehabilitation (also known as the Able Trust)⁴ is required to *enter* into an agreement with the Florida Association of Centers for Independent Living (FACIL) to administer the program.⁵

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.⁶

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.⁷

Oversight Group

The purpose of the oversight group is to assure that the program is delivered in an appropriate, fair, and consistent manner.⁸ 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
- One representative from the Brain and Spinal Cord Injury Program in the Department of Health.

³ Chapter 2005-172, L.O.F.

⁴ 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).

⁵ Section 413.402, F.S.

⁶ Section 413.402(1), F.S.

⁷ Section 413.402(2)(a), F.S.

⁸ 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).

Program Funding

There are two funding sources for the program:

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

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.¹¹ 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.¹² 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. All sixteen Centers for Independent Living in all 20 judicial circuits participate in the tax diversion program.¹³

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.¹⁴ 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.¹⁵

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

⁹ Section 413.4021(1), F.S.

¹⁰ Section 320.08068(4)(d), F.S.

¹¹ Section 413.4021, F.S.

¹² Section 413.4021(1), F.S.

¹³ See Division of Vocational Rehabilitation, Centers for Independent Living Map, available at: http://rehabworks.org/cil_map.shtml (last visited on Jan. 21, 2016).

¹⁴ Section 320.08068, F.S.

¹⁵ Section 320.08068(4), F.S.

Enforcement Diversion Program¹⁶ and the Motorcycle Specialty License Plate program.¹⁷ 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.¹⁸

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 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 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 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 Committee

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

- The Director of the Division of Vocational Rehabilitation or his or her designee;
- The Executive Director of the Department of Revenue or his or her designee;
- The Secretary of the Department of Children and Families or his or her designee;

¹⁶ Section 413.4021(1), F.S.

¹⁷ Section 320.08068(4)(d), F.S.

¹⁸ Section 413.402, F.S.

- The Director of the advisory council on brain and spinal cord injuries or his or her designee;
- A program participant appointed by the President of the Senate;
- A member of the Florida Independent Living Council appointed by the Speaker of the House of Representatives;
- A financial management professional appointed by the Governor; and
- Two ex-officio, nonvoting members, one of whom is designated by the chair of the Florida Endowment Foundation for Vocational Rehabilitation (Able Trust), and the other designated by the chair of the FACIL.

Representatives of the Medicaid program within the Agency for Health Care Administration, the Able Trust, and the FACIL, are removed from membership.

Additionally, the bill provides that the advisory and oversight committee is responsible for:

- Providing program oversight;
- Approving the program's annual operating budget for administration and oversight; and
- Advising the FACIL on policies and procedures.

Program Funding

Administrative Expenses

The bill requires the FACIL to adopt new and revised policies and procedures governing the operation of the program and training. FACIL is also required to provide technical assistance to program participants, and administrative support services for the program and the advisory and oversight committee to ensure the financial integrity of the program.

The bill requires the program to reimburse the FACIL monthly for payments made to program participants and for costs associated with program administration and oversight in accordance with the annual operating budget. The bill changes the portion of the funds deposited with the Florida Endowment Foundation for Vocational Rehabilitation (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 and oversight in the annual operating budget approved by the advisory and oversight committee may not exceed 12 percent of the funds deposited with the Florida Endowment Foundation for Vocational Rehabilitation (Able Trust).

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 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 disabled persons 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' participating¹⁹ in the tax collection enforcement diversion program from \$50,000 to not more than \$75,000 for each state attorney.

VI. Technical Deficiencies:

None.

¹⁹ Currently there are 7 state attorneys' 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.

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.)

See PCS 736346 by Fiscal Policy (Recommended CS/CS by Appropriations Subcommittee on Education on November 18, 2015)

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.