

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 495 Florida Association of Centers for Independent Living

**SPONSOR(S):** Education Appropriations Subcommittee; Harrell

**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 202

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Higher Education & Workforce Subcommittee	10 Y, 0 N	Cherry	Bishop
2) Education Appropriations Subcommittee	11 Y, 0 N, As CS	deNagy	Heflin
3) Education Committee			

### SUMMARY ANALYSIS

In 2005, the Florida Legislature established the James Patrick Memorial Work Incentive Personal Attendant Services Program to provide personal care attendants for eligible persons with severe and chronic disabilities of all kinds. The bill renames the program as the James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program and expands its services to assist disabled adults with securing and maintaining employment.

The bill also expands the responsibilities of the Florida Association of Centers for Independent Living, which is tasked with administering the program. In addition, the existing oversight group is reestablished as an oversight committee with revised membership.

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

The bill has an effective date of July 1, 2016.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

Florida law establishes and provides a funding source for the Personal Care Attendant Program that provides personal care attendants for eligible persons with severe and chronic disabilities of all kinds.<sup>1</sup> The program was established as a pilot in 2002 and made permanent and statewide in 2005.<sup>2</sup> Currently, there are 16 Centers for Independent Living operating in Florida.<sup>3</sup> The most recent data shows that the centers provided independent living services to 21,938 people from October 1, 2013 to September 30, 2014.<sup>4</sup>

Persons eligible to participate in the program must:

- Be at least 18 years of age, a legal resident of this state and be 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 and as defined in s. 429.02, F.S.;
- Require a personal care attendant in order to maintain substantial gainful employment; and
- Be able to acquire and direct a personal care attendant.

The Florida Endowment Foundation for Vocational Rehabilitation (FEFVR) is required to enter into an agreement with the Florida Association of Centers for Independent Living (FACIL) to administer the program.<sup>5</sup> FACIL provides training to program participants on hiring and managing a personal care attendant.<sup>6</sup> FACIL must also, in cooperation with an oversight group, adopt and revise policies and procedures governing the Personal Care Attendant Program and training program.

Funding to administer the program are paid from two sources:

- Tax Collection Enforcement Diversion Program; and
- Fees from the Motorcycle Specialty License Plate.<sup>7</sup>

The Florida Endowment Foundation for Vocational Rehabilitation (also known as the Able Trust) serves as a direct-support organization of the division of Vocational Rehabilitation within the Department of Education.<sup>8</sup> The principal of the endowment comes from two percent of the deposits of civil penalties by county courts<sup>9</sup> and legislative appropriations.<sup>10</sup> In Fiscal Year 2015-16, the legislature appropriated \$549,823 in general revenue funds to FEFVR.<sup>11</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 FACIL and state attorneys, 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>12</sup> Fifty percent of the collections from the tax diversion program are deposited into the operating account of the Able Trust to be used to operate the Personal

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

<sup>2</sup> Chapters Chapter 2002-286 and 2005-172, L.O.F.

<sup>3</sup> See [http://rehabworks.org/indep\\_living.shtml](http://rehabworks.org/indep_living.shtml) (last visited on November 23, 2015).

<sup>4</sup> See E-mail from Government Relations Office, Florida Department of Education (November 24, 2015) (on file with the House Education Committee).

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

<sup>6</sup> *Id.* 413.402(2)(a), F.S.

<sup>7</sup> Sections 413.4021(1) and 320.08068(4)(d), F.S.

<sup>8</sup> Section 413.615(4)(a)

<sup>9</sup> Section 318.21

<sup>10</sup> Section 413.615(4)(b)

<sup>11</sup> Chapter 2015-232, L.O.F.

<sup>12</sup> Section 413.4021, F.S.

Care Attendant Program and to contract with the state attorneys 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.<sup>14</sup> 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. 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 support the Personal Care Attendant Program; and
- Twenty percent to the Florida Association for Centers for Independent Living.<sup>15</sup>

### Effect of Proposed Changes

The bill 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. In addition to the provision of personal care attendants currently being offered to eligible participants, the bill requires other support and services necessary to maintain competitive employment or self-employment to be made available to eligible persons in the program.

The bill defines competitive employment as public or private sector employment in which:

- The employee earns wages and benefits that are commensurate with his or her qualifications;
- The wages are comparable to persons with similar jobs in that industry or profession; and
- The employment allows the employee to work in comparable conditions to those experienced by the general workforce in that industry or profession.

The bill requires FACIL to provide training to program participants on the hiring and managing of a personal care attendant and other skills needed to effectively access and manage the support and services provided in the program. FACIL must also provide administrative services to ensure the financial integrity of the program. The maximum monthly reimbursement provided to program participants is subject to approval by the oversight committee.

The bill changes the portion of funding available to FACIL to administer the program. Current law provides that FACIL receive 12 percent of the funds paid to or on behalf of participants in the program. The bill provides that FACIL will be reimbursed up to 12 percent of the total funds deposited into the program from the FEFVR account for the previous fiscal year or the budget approved for the previous fiscal year, whichever is greater.

The bill renames the existing oversight group as the Oversight Committee and changes its membership. The bill adds the director of the Division of Vocational Rehabilitation or designee, a human resources professional or individual who has significant experience managing and operating a business based in the state appointed by the Speaker of the House of Representatives, a program participant appointed by the President of the Senate, the director of the advisory council on brain and spinal cord injuries or designee, and a financial management professional appointed by the Governor. The Oversight Committee is tasked with providing program oversight, approving the maximum monthly reimbursement available to program participants, advising FACIL on policies and procedures, and approving the program's annual operating budget for administration and oversight.

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<sup>13</sup> Section 413.4021(1), F.S. The contract amount for each state attorney cannot exceed \$50,000.

<sup>14</sup> Section 320.08068(2), F.S.

<sup>15</sup> Section 320.08069(4), F.S.

In addition, the bill increases the amount available to contract with state attorneys participating in the tax collection enforcement diversion program from \$50,000 to not more than \$75,000 per state attorney. The bill also changes the name of the entity receiving 20 percent of the funds distributed to the Able Trust from the sale of specialty motorcycle licenses to the James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program.

**B. SECTION DIRECTORY:**

**Section 1.** Amends s. 413.402, F.S., requiring that a specified agreement be maintained; renaming the James Patrick Memorial Work Incentive Personal Attendant Services Program as the James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program; requiring the program to provide additional support and services; requiring the association, in consultation with the Oversight Committee, to adopt and revise certain policies and procedures and to provide technical assistance and support under certain circumstances; requiring the program to reimburse the Florida Association of Centers for Independent Living for certain costs approved by the oversight committee; revising membership of the committee; and renaming the committee as the Oversight Committee.

**Section 2.** Amends s. 413.4021, F.S., revising the maximum amount of specified funds for each state attorney which may be used to administer the personal attendant and employment assistance program.

**Section 3.** Amends s. 320.08068, F.S., making technical and conforming changes.

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

**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:**

The bill expands the scope of services to disabled persons to include employment assistance to eligible program participants to be provided by FACIL. FACIL estimates an increase of \$231,926 in spending for the James Patrick Memorial Work Incentive Personal Attendant Services and Employment

Assistance Program (program) if the bill becomes law.<sup>16</sup> Current yearly expenditures for the program are \$1.2 million.<sup>17</sup> The program received \$2.2 million in revenues in the current fiscal year.<sup>18</sup>

The Revenue Estimating Conference (REC) convened on September 3, 2015 to adopt a forecast of revenues collected from the Tax Collection Enforcement Diversion Program. The FY 2014-15 actual numbers showed a 9.1 percent increase in revenues over the previous year. The REC estimated an average of a 1.5 percent increase each year over the next 4 years due to population growth, bringing the total to over \$4 million each year.<sup>19</sup> Fifty percent of the collections from the tax diversion program are deposited into the operating account of the Able Trust to be used to operate the program and to contract with the state attorneys participating in the tax diversion program.<sup>20</sup>

The bill also increases the amount of funds available to contract with the state attorneys' offices participating in the tax collection enforcement diversion program from \$50,000 to not more than \$75,000 for each office. Currently, there are 7 state attorneys' offices participating in the program.<sup>21</sup> The increase will result in \$175,000 going to the state attorneys' offices. The increase may result in more state attorneys' offices participating in the program, which would further increase the total revenues for the Tax Collection Enforcement Diversion Program.

The bill will not have a fiscal impact to the Department of Education.<sup>22</sup>

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

None.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

None.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 19, 2016, the Education Appropriations Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment changed provisions relating to the oversight committee's responsibilities and the make-up of its members.

This analysis is drafted to the committee substitute as passed by the Education Appropriations Subcommittee.

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<sup>16</sup> Proposed JP-PAS Program Budget 2015-16, Florida Association of Centers for Independent Living (on file with the House Education Appropriations Subcommittee)

<sup>17</sup> James Patrick Memorial Personal Attendant Services Program Financial Report for October 1, 2015 – November 20, 2015, The Able Trust, The Florida Endowment Foundation for Vocational Rehabilitation, Inc.

<sup>18</sup> *Id.*

<sup>19</sup> Revenue Estimating Conference, Tax Collection Enforcement Diversion Program, September 3, 2015, Executive Summary

<sup>20</sup> Section 413.4021(1), F.S. The contract amount for each state attorney cannot exceed \$50,000.

<sup>21</sup> Jacksonville, Clearwater, Miami, Tampa, West Palm Beach, Fort Lauderdale, and Fort Meyers. Revenue Estimating Conference, Tax Collection Enforcement Diversion Program, September 3, 2015, Executive Summary

<sup>22</sup> See E-mail from Government Relations Office, Florida Department of Education (December 17, 2015) (on file with the House Education Appropriations Subcommittee).