

## HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

**BILL #:** CS/HB 485 Veterans' Services and Recognition

**SPONSOR(S):** Health Care Appropriations Subcommittee, Salzman and others

**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 824

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**FINAL HOUSE FLOOR ACTION:** 115 Y's

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**GOVERNOR'S ACTION:** Approved

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### SUMMARY ANALYSIS

CS/HB 485 passed the House on April 20, 2023, and subsequently passed the Senate on May 1, 2023.

The Florida Department of Veterans' Affairs (FDVA) operates a network of nine state veterans' homes and provides statewide outreach to connect veterans with services, benefits and support. FDVA offers benefits and services in the fields of health care, mental health and substance abuse, claims support, education, employment, housing, burial benefits, and legal assistance. The U.S. Department of Veterans' Affairs (VA) is principally responsible for the delivery of health care services to veterans.

Boards of county commissioners and governing bodies of municipalities may employ veteran service officers and prescribe their duties, compensation, and terms of employment.

Adult day health care is a program established by the VA with the goal of allowing veterans to have a place during the day for social activities, peer support, companionship, and recreation. The program is intended for veterans who need help with activities of daily living, who are isolated, or whose caregiver is experiencing burden. Adult day care centers are generally subject to state regulation; however, facilities that operate under the federal government or any agency thereof are exempt from state law pertaining to adult day care centers and regulation by the Agency for Health Care Administration.

The bill creates the Division of Long-term Care (division) within FDVA. The division will oversee the operations of veterans' adult day health care programs. The bill provides that the executive director of FDVA (director) shall appoint operators who will be responsible for the overall operation of each operator's state authorized veterans' adult day health care program. The director may designate contractors that are responsible for the operations of an adult day health care program and authorized under federal law to perform the same duties as operators. Eligible veterans who are residents of the state and have a service-connected disability will have priority admittance.

The bill also revises eligibility requirements of county and city veteran service officers and designates the week of November 11 of each year as "Veterans Week."

The fiscal impact to state government is indeterminate. Federal reimbursement is available for each program participant; however, the participant number is unknown. There are costs associated with starting a program, but the FDVA estimates that these costs will be absorbed within existing resources. See Fiscal Analysis.

The bill was approved by the Governor on May 26, 2023, ch. 2023-162, L.O.F., and will become effective on July 1, 2023.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### **Present Situation**

##### Veterans' Services

###### *Florida Department of Veterans' Affairs (FDVA)*

The FDVA is a nearly 1,500-member constitutionally chartered<sup>1</sup> department with a budget of \$171 million for FY 2022-2023.<sup>2</sup> FDVA operates a network of nine state veterans' homes and provides statewide outreach to connect veterans with services, benefits, and support.<sup>3</sup> FDVA offers benefits and services in the fields of health care, mental health and substance abuse, claims support, education, employment, housing, burial benefits, and legal assistance.<sup>4</sup>

###### *Health Care*

The U.S. Department of Veterans' Affairs (VA) is principally responsible for the delivery of health care services to veterans.<sup>5</sup> Eligibility for hospital, nursing home, and domiciliary care depends on a number of factors. Veterans qualify for specified health care services depending on disability status, time of service, active duty status during service, toxic exposure during service, annual income, and need for support.<sup>6</sup>

###### *Veteran Service Officers*

Boards of county commissioners and governing bodies of municipalities may employ veteran service officers and prescribe their duties, compensation, and terms of employment.<sup>7</sup> A veteran service officer must be a veteran who served as a member of the U.S. Armed Forces during a period of war,<sup>8</sup> served at least 18 months' active duty in the Armed Forces, and was separated from such service under honorable conditions.<sup>9</sup>

##### Legal Holidays and Observances

State law provides designations for legal holidays and special observances. Depending on the holiday or special observance, certain actions may be required to be performed for the

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<sup>1</sup> Art. IV, s. 11, Fla. Const.

<sup>2</sup> Ch. 2022-156, Laws of Fla., pg. 141.

<sup>3</sup> Florida Department of Veterans Affairs, *Florida Department of Veterans' Affairs – Our Vision and Mission*, available at <https://www.floridavets.org/leadership/> (last visited on Mar. 12, 2023).

<sup>4</sup> Florida Department of Veterans Affairs, *Benefits & Services*, available at <https://www.floridavets.org/benefits-services/> (last visited on Mar. 12, 2023).

<sup>5</sup> Florida Department of Veterans Affairs, *Health Care*, available at <https://www.floridavets.org/benefits-services/health-care/> (last visited on Mar. 12, 2023).

<sup>6</sup> 38 U.S.C. s. 1710.

<sup>7</sup> S. 292.11, F.S.

<sup>8</sup> "Period of war" is defined as the Spanish-American War, the Mexican border period, World War I, World War II, the Korean conflict, the Vietnam era, the Persian Gulf War, and the period beginning on the date of any declaration of war by the Congress and ending on the date prescribed by Presidential proclamation or concurrent resolution of the Congress. 38 U.S.C. s. 101(11).

<sup>9</sup> S. 292.11(1), F.S.

commemoration or observance of the date, day, or month. There are 21 legal holidays<sup>10</sup> established in law and 36 special observances.<sup>11</sup>

### Adult Day Care Centers

Adult day care centers provide therapeutic services and activities for adults in a non-institutional setting.<sup>12</sup> Participants may utilize a variety of services offered during any part of a day, totaling less than 24 hours. Basic services provided by adult day care centers include leisure activities, self-care training, nutritional services, and respite care.<sup>13</sup> These facilities are licensed by the Agency for Health Care Administration.<sup>14</sup> However, facilities that operate under the federal government or any agency thereof are exempt from the current state law pertaining to adult day care centers.<sup>15</sup>

The VA's Adult Day Health Care Program (Program) was established by the VA with the goal of allowing veterans to have a place during the day for social activities, peer support, companionship, and recreation.<sup>16</sup> The Program is intended for veterans who need help with activities of daily living, who are isolated, or whose caregivers are experiencing burden. Health services such as care from nurses, therapists, social workers, and others may also be provided. The Program may be provided at VA medical centers, state Veterans Homes, or through community organizations. A state must meet the following federal requirements to receive a federal grant or grant funding for an adult day health care program:

- If an adult day health care program is located within a nursing home, domiciliary, or other care facility, the adult health care program must have its own separate designated space during operational hours.
- The indoor space for the adult day health care program must be at least 100 sq. ft. per participant, including office space for staff, and must be 60 sq. ft. per participant, excluding office space for staff.
- Each program will need to design and partition its space to meet its own needs but must make available certain federally-mandated functional areas.<sup>17</sup>
- Furnishings must be available for all participants, including functional furniture appropriate to the participants' needs.<sup>18</sup>

### **Effect of the Bill**

The bill creates the Division of Long-term Care (division) within FDVA. The division will oversee the operations of veterans' adult day health care programs. The bill provides that the executive director of FDVA (director) shall appoint operators who will be responsible for the overall operation of each operator's state authorized veterans' adult day health care program. The director may designate contractors responsible for the operations of an adult day health care entity authorized under federal law to perform the same duties as operators.

While the bill provides that the operator shall determine eligibility of the applicants for admission into an adult day health care program, the bill also provides general eligibility requirements and an admittance priority. In order to be eligible for the program, a person must:

- Be a veteran as defined by state law;
- Need adult day health care services;

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<sup>10</sup> S. 683.01, F.S.

<sup>11</sup> Ss. 683.04 - 683.3341, F.S.

<sup>12</sup> S. 429.901(3), F.S.

<sup>13</sup> *Id.*

<sup>14</sup> S. 429.903, F.S.

<sup>15</sup> S. 429.905, F.S.

<sup>16</sup> U.S. Department of Veterans Affairs, *Adult Day Health Care*, available at [https://www.va.gov/geriatrics/pages/Adult\\_Day\\_Health\\_Care.asp](https://www.va.gov/geriatrics/pages/Adult_Day_Health_Care.asp) (last visited Mar. 12, 2023).

<sup>17</sup> For the list of federally mandated functional areas, see 38 C.F.R. s. 59.160(c)(1)-(11).

<sup>18</sup> 38 C.F.R. s. 59.160.

- Be a resident of the state at the time of application for admission to the program;
- Not owe money to FDVA for services rendered during any previous stay at a department facility;
- Have applied for all financial assistance reasonably available through governmental sources; and
- Have been approved as eligible for care and treatment by the VA.

The bill provides that an operator may waive the residency requirement for an applicant as long as the veteran would be otherwise eligible under the requirements listed above, and the applicant is a disaster evacuee of a state that is under a declared state of emergency.

The bill establishes the following admittance priority for eligible veterans who:

- Are residents of the state.
- Have a service-connected disability as determined by the VA or were discharged or released from military service for disability incurred or aggravated in the line of duty, and the disability is the condition for which adult day health care is needed.
- Have a non-service-connected disability and are unable to defray the expense of adult day health care and so state under oath before a notary public or other officer authorized to administer an oath.

Operators are authorized to admit veterans who have sufficient means to fund their own support but who would otherwise be eligible for admittance if the program has available room.

The bill requires a program under the division to be open to audit and inspection by the Auditor General and the Office of Program Policy Analysis and Government Accountability. The bill grants rulemaking authority to the operator and the director to adopt rules necessary for the proper administration of the program, including rules to preserve order and enforce discipline in the program. The rules must conform as nearly as possible to the rules and regulations for comparable facilities of the VA.

The bill revises the eligibility requirement of county and city veteran service officers to provide that any veteran, as defined by state law, may serve as a veteran service officer.

The bill designates the week of November 11 of each year "Veterans Week." The governor is authorized to issue a proclamation during Veterans Week and may call public officials, schools, private organizations, and residents of the state to commemorate Veterans Week and servicemembers.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

The FDVA will receive a federal reimbursement for each eligible participant in the adult day care program. At this time, it is unknown how quickly the program will be established and how many participants will be served. Once federal reimbursement revenues are received, the funds will be deposited into the Operations and Maintenance Trust Fund within the department. The FDVA will need to request spending authority from the Legislature to expend any of the revenues received.

#### **2. Expenditures:**

The FDVA will experience startup costs, such as licensure application through AHCA, renovation expenses, and increases in liability insurance within the Veterans' Nursing Homes division for the establishment of the adult day care program. The FDVA anticipates that these startup costs will be minor and can be absorbed within existing resources. Additionally, the FDVA expects that the

overall operation of the adult day care program will be performed by contractors and will have no increase in state personnel expenditures.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Qualifying private contractors that are currently providing services in other settings may now be eligible for designation as operators.

**D. FISCAL COMMENTS:**

The bill authorizes FDVA to operate, or contract with third parties to operate, adult day care programs. These programs may increase expenditures by FDVA but may also be offset by funds received from VA for the program.