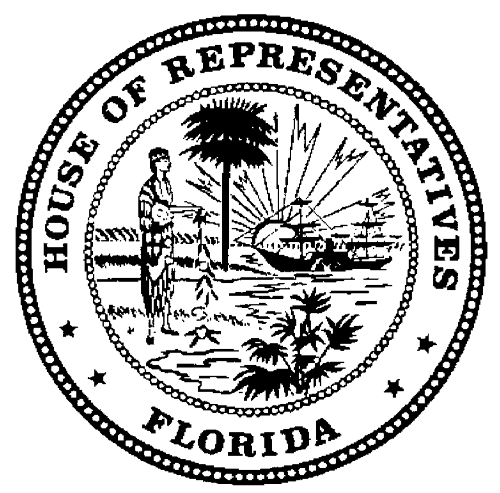

Healthcare Council

Tuesday, March 20, 2007
1:00 PM
Morris Hall

Marco Rubio
Speaker

Aaron Bean
Chair

Council Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Marco Rubio

Healthcare Council

Start Date and Time:	Tuesday, March 20, 2007 01:00 pm
End Date and Time:	Tuesday, March 20, 2007 05:00 pm
Location:	Morris Hall (17 HOB)
Duration:	4.00 hrs

Consideration of the following bill(s):

HB 139 Suicide Prevention by Gibson, H.
HB 281 Paramedic Certification by Kreegel
HB 469 Informed Consent by Hays

Workshop on the following:

Budget FY 2007-2008

Consideration of the following proposed council bill(s):

PCB HCC 07-01 -- relating to trust funds
PCB HCC 07-02 -- tobacco education and prevention
PCB HCC 07-10 -- biomedical research funding
PCB HCC 07-11a -- model fixed payment service delivery system for people with developmental disabilities
PCB HCC 07-12 -- Medicaid
PCB HCC 07-13 -- health care

Pursuant to rule 7.12, the deadline for amendments to bills on the agenda by non-appointed members shall be 6:00 p.m., Monday, March 19, 2007.

By request of the Chair, all committee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Monday, March 19, 2007.

NOTE: PCB HCC 07-11a had a title change and there is no other change in the body of the bill.

NOTICE FINALIZED on 03/16/2007 16:05 by BAI

HB 139

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 139 Suicide Prevention
SPONSOR(S): Gibson and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 224

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Health Quality	10 Y, 0 N	Guy	Lowell
2) Healthcare Council		Guy	Gormley
3) Policy & Budget Council			
4)			
5)			

SUMMARY ANALYSIS

The bill creates the Statewide Office for Suicide Prevention in the Office of Drug Control within the Executive Office of the Governor. The bill requires the director of the Office of Drug Control to employ a coordinator for the Statewide Office of Suicide Prevention.

The bill also creates a 28-member Suicide Prevention Coordinating Council within the Statewide Office of Suicide Prevention. Council membership consists of representatives from private sector organizations, agency secretaries and executive directors, and Governor's appointees. The council is required to develop a statewide plan for suicide prevention to coordinate and direct numerous suicide prevention initiatives.

The bill appropriates $150,000 from the General Revenue Fund and authorizes two positions, one of which is a coordinator for the office to implement the provisions of the bill for Fiscal Year 2007-2008.

The effective date of this bill is July 1, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Limited Government—The bill creates the Statewide Office for Suicide Prevention in the Office of Drug Control within the Executive Office of the Governor, creates a 28-member Suicide Prevention Coordinating Council, and authorizes two positions to implement the provisions of the bill.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

In Florida, the tenth leading cause of death for the overall population is suicide, with 2,308 suicides in the state during 2005. Suicide is the third leading cause of death for 15-24 year olds, the second leading cause of death for 25-34 year olds, and the fifth leading cause of death for 35-44 year olds.[1] Florida is ranked 15th nationally for the number of suicides.[2]

In January 2005, the Office of Drug Control released a guidance document entitled, *Florida Suicide Prevention Strategy 2005-2010*. Among other things, the Strategy advocates for the adoption of a strategic, long-term approach to suicide prevention, which includes the formation of a statewide office for suicide prevention.

Currently, the Office of Drug Control has one staff member who acts as a suicide prevention coordinator. The coordinator distributes the Florida Suicide Prevention Strategy and assists in the implementation of goals and objectives stated within the document by facilitating communication among the numerous public and private entities whose mission is suicide prevention. This position is currently funded through grants to the Office of Drug Control.

Chapter 14, Florida Statutes, describes the organizational structure of the Executive Office of the Governor (EOG). Section 397.332, Florida Statutes, creates the Office of Drug Control inside the EOG. Chapter 20, Florida Statutes, defines several types of advisory bodies:

Name	Duration	Additional Comment
"Council" or "Advisory Council"	"[On] a continuing basis…"	Created by specific statutory enactment and intended to focus on a specific function or program area. Provides recommendations and policy alternatives.
"Committee" or "Task Force"	1 year (without specific statutory enactment); 3 years (with specific statutory enactment)	Appointed to study a particular problem and recommend a solution. Existence terminates upon completion of assignment.
"Coordinating Council"	Not explicitly stated.	An interdepartmental advisory body – one department has primary responsibility but other agencies have an interest.
"Commission"	Not explicitly stated.	Exercises quasi-legislative or quasi-judicial power, and its members must generally be confirmed by the Legislature.

[1] Florida Vital Statistics Annual Report 2005.

[2] Suicide Data Page 2004, Report to the American Association of Suicidology.

Pursuant to section 20.052, Florida Statutes, the creation of any new advisory body requires the following findings or requirements:

- It must be necessary and beneficial to the furtherance of a public purpose.
- It must be terminated by the Legislature when it is no longer necessary and beneficial to the furtherance of a public purpose.
- The Legislature and the public must be kept informed of its activities and expenses.
- It meets a statutorily defined purpose.
- Its powers and responsibilities conform to the definitions for governmental units in section 20.03, Florida Statutes (outlined in the table above).
- Its members, unless expressly provided otherwise in the State Constitution, are appointed for 4-year staggered terms.
- Its members, unless expressly provided otherwise by specific statutory enactment, serve without additional compensation or honorarium, and are authorized to receive only per diem and reimbursement for travel expenses as provided in section 112.061, Florida Statutes.

In addition, the agency head or the governor appoints private citizen members of a committee or council. Private citizen members of a commission or board of trustees are appointed by the governor and confirmed by the Legislature, and are subject to the dual-office-holding prohibition of section 5(a), Article II of the State Constitution. All meetings of any entity are public, and minutes must be kept. Public records are maintained by the agency under which the entity is created.

Effect of Proposed Changes

The bill creates the Statewide Office for Suicide Prevention ("office") in the Office of Drug Control and specifies duties for the office including:

- Developing a network of community-based programs to improve suicide prevention initiatives.
- Implementing a statewide plan for suicide prevention.
- Increasing public awareness concerning topics relating to suicide prevention.
- Coordinating education and training curricula in suicide prevention efforts for professionals who may have contact with persons at risk of committing suicide.
- Soliciting grants from federal, state, and local sources to fund operations and expenses of the office and the council.

The bill requires the office to employ a coordinator whose responsibility it is to achieve the office's goals and objectives as set forth in the bill. The bill also creates a Suicide Prevention Coordinating Council ("council") of 28 members within the office. The council is required to develop a statewide plan for suicide prevention. Further, the council is required to prepare and submit an annual report to the Legislature and the governor regarding suicide prevention programs, activities, and future initiatives.

Council membership is specified within the bill and includes: Office of Drug Control director appointees, who are from the private sector; state agency secretaries and executive directors; and appointees by the governor. The bill specifies terms of office, a meeting schedule, and authorizes per diem and travel reimbursement for council members as authorized by section 112.061, Florida Statutes.

C. SECTION DIRECTORY:

Section 1: Creates s. 14.2019, F.S., creating the Statewide Office for Suicide Prevention.

Section 2: Creates s. 14.20195, F.S., creating the Suicide Prevention Coordinating Council.

Section 3: Provides an appropriation.

Section 4: Provides for an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill authorizes the office to seek grants and other methods of funding from federal, state and local sources.

2. Expenditures:

   The bill appropriates $150,000 from the General Revenue Fund and authorizes two positions, one of which is a coordinator for the office to implement the provisions of the bill for Fiscal Year 2007-2008.

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:

No additional rule-making authority is required as a result of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

N/A.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to suicide prevention; creating s.
3 14.2019, F.S.; creating the Statewide Office for Suicide
4 Prevention as a unit of the Office of Drug Control in the
5 Executive Office of the Governor; providing the goals and
6 objectives of the office; creating the position of
7 statewide coordinator for the statewide office, contingent
8 upon a specific appropriation; authorizing the Statewide
9 Office for Suicide Prevention to seek and accept grants or
10 funds from any source to support its operation; creating
11 s. 14.20195, F.S.; creating the Suicide Prevention
12 Coordinating Council within the Statewide Office for
13 Suicide Prevention; providing the scope of activities for
14 the coordinating council; authorizing the coordinating
15 council to assemble an ad hoc committee to advise the
16 coordinating council; providing for membership on the
17 coordinating council; providing an appropriation and
18 authorizing additional positions; providing an effective
19 date.
20
21 Be It Enacted by the Legislature of the State of Florida:
22
23 Section 1. Section 14.2019, Florida Statutes, is created
24 to read:
25 <u>14.2019 Statewide Office for Suicide Prevention.--</u>
26 <u>(1) The Statewide Office for Suicide Prevention is created</u>
27 <u>as a unit of the Office of Drug Control within the Executive</u>
28 <u>Office of the Governor.</u>

CODING: Words ~~stricken~~ are deletions; words <u>underlined</u> are additions.

29 (2) The statewide office shall, within available
30 resources:
31 (a) Develop a network of community-based programs to
32 improve suicide prevention initiatives. The network shall
33 identify and work to eliminate barriers to providing suicide
34 prevention services to individuals who are at risk of suicide.
35 The network shall consist of stakeholders advocating suicide
36 prevention, including, but not limited to, not-for-profit
37 suicide prevention organizations, faith-based suicide prevention
38 organizations, law enforcement agencies, first responders to
39 emergency calls, suicide prevention community coalitions,
40 schools and universities, mental health agencies, substance
41 abuse treatment agencies, health care providers, and school
42 personnel.
43 (b) Implement the statewide plan prepared by the Suicide
44 Prevention Coordinating Council.
45 (c) Increase public awareness concerning topics relating
46 to suicide prevention.
47 (d) Coordinate education and training curricula in suicide
48 prevention efforts for law enforcement personnel, first
49 responders to emergency calls, health care providers, school
50 employees, and other persons who may have contact with persons
51 at risk of suicide.
52 (3) Contingent upon a specific appropriation, the director
53 of the Office of Drug Control shall employ a coordinator for the
54 Statewide Office for Suicide Prevention who shall work under the
55 direction of the director to achieve the goals and objectives
56 set forth in this section.

57 (4) The Statewide Office for Suicide Prevention may seek
58 and accept grants or funds from any federal, state, or local
59 source to support the operation and defray the authorized
60 expenses of the office and the Suicide Prevention Coordinating
61 Council.
62 (5) Agencies under the control of the Governor or the
63 Governor and Cabinet are directed, and all others are
64 encouraged, to provide information and support to the Statewide
65 Office for Suicide Prevention as requested.
66 Section 2. Section 14.20195, Florida Statutes, is created
67 to read:
68 14.20195 Suicide Prevention Coordinating Council;
69 creation; membership; duties.--There is created within the
70 Statewide Office for Suicide Prevention a Suicide Prevention
71 Coordinating Council. The council shall develop strategies for
72 preventing suicide.
73 (1) SCOPE OF ACTIVITY.--The Suicide Prevention
74 Coordinating Council is a coordinating council as defined in s.
75 20.03 and shall:
76 (a) Advise the Statewide Office for Suicide Prevention
77 regarding the development of a statewide plan for suicide
78 prevention, with the guiding principle being that suicide is a
79 preventable problem. The statewide plan must:
80 1. Align and provide direction for statewide suicide
81 prevention initiatives.
82 2. Establish partnerships with state and private agencies
83 for the purpose of promoting public awareness of suicide
84 prevention.

85 3. Address specific populations in this state who are at
86 risk for suicide.
87 4. Identify ways to improve access to help individuals in
88 acute situations.
89 5. Identify resources to support the implementation of the
90 statewide plan.
91 (b) Assemble an ad hoc advisory committee comprised of
92 members from outside the council, if necessary, in order for the
93 council to receive advice and assistance in carrying out its
94 responsibilities.
95 (c) Make findings and recommendations regarding suicide
96 prevention programs and activities. The council shall prepare an
97 annual report and present it to the Governor, the President of
98 the Senate, and the Speaker of the House of Representatives by
99 January 1, 2008, and each year thereafter. The annual report
100 must describe the status of existing and planned initiatives
101 identified in the statewide plan for suicide prevention and any
102 recommendations arising therefrom.
103 (2) MEMBERSHIP.--The Suicide Prevention Coordinating
104 Council shall consist of 28 voting members.
105 (a) Fourteen members shall be appointed by the director of
106 the Office of Drug Control and shall represent the following
107 organizations:
108 1. The Substance Abuse and Mental Health Corporation
109 described in s. 394.655.
110 2. The Florida Association of School Psychologists.
111 3. The Florida Sheriffs Association.
112 4. The Suicide Prevention Action Network USA.

113 5. The Florida Initiative of Suicide Prevention.
114 6. The Florida Suicide Prevention Coalition.
115 7. The Alzheimer's Association.
116 8. The Florida School Board Association.
117 9. Volunteer Florida.
118 10. The state chapter of AARP.
119 11. The Florida Alcohol and Drug Abuse Association.
120 12. The Florida Council for Community Mental Health.
121 13. The Florida Counseling Association.
122 14. NAMI Florida.
123 (b) The following state officials or their designees shall
124 serve on the coordinating council:
125 1. The Secretary of Elderly Affairs.
126 2. The Secretary of Health.
127 3. The Commissioner of Education.
128 4. The Secretary of Health Care Administration.
129 5. The Secretary of Juvenile Justice.
130 6. The Secretary of Corrections.
131 7. The executive director of the Department of Law
132 Enforcement.
133 8. The executive director of the Department of Veterans'
134 Affairs.
135 9. The Secretary of Children and Family Services.
136 10. The director of the Agency for Workforce Innovation.
137 (c) The Governor shall appoint four additional members to
138 the coordinating council. The appointees must have expertise
139 that is critical to the prevention of suicide or represent an
140 organization that is not already represented on the coordinating

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

141 council.
142 (d) For the members appointed by the director of the
143 Office of Drug Control, seven members shall be appointed to
144 initial terms of 3 years, and seven members shall be appointed
145 to initial terms of 4 years. For the members appointed by the
146 Governor, two members shall be appointed to initial terms of 4
147 years, and two members shall be appointed to initial terms of 3
148 years. Thereafter, such members shall be appointed to terms of 4
149 years. Any vacancy on the coordinating council shall be filled
150 in the same manner as the original appointment, and any member
151 who is appointed to fill a vacancy occurring because of death,
152 resignation, or ineligibility for membership shall serve only
153 for the unexpired term of the member's predecessor. A member is
154 eligible for reappointment.
155 (e) The director of the Office of Drug Control shall be a
156 nonvoting member of the coordinating council and shall act as
157 chair.
158 (f) Members of the coordinating council shall serve
159 without compensation. Any member of the coordinating council who
160 is a public employee is entitled to reimbursement for per diem
161 and travel expenses as provided in s. 112.061.
162 (3) MEETINGS.--The coordinating council shall meet at
163 least quarterly or upon the call of the chair. The council
164 meetings may be held via teleconference or other electronic
165 means.
166 Section 3. Two full-time equivalent positions are
167 authorized and the sum of $150,000 is appropriated from the
168 General Revenue Fund to the Office of Drug Control for the

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

169 purpose of implementing this act during the 2007-2008 fiscal
170 year.
171 Section 4. This act shall take effect July 1, 2007.

Bill No. **0139**

COUNCIL/COMMITTEE ACTION

ADOPTED __ (Y/N)
ADOPTED AS AMENDED __ (Y/N)
ADOPTED W/O OBJECTION __ (Y/N)
FAILED TO ADOPT __ (Y/N)
WITHDRAWN __ (Y/N)
OTHER ______

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1 Council/Committee hearing bill: Healthcare Council
2 Representative(s) H. Gibson offered the following:
3
4 **Amendment (with title amendment)**
5 Remove everything after the enacting clause and insert:
6 Section 1. Section 14.2019, Florida Statutes, is created
7 to read:
8 14.2019 Statewide Office for Suicide Prevention.--
9 (1) The Statewide Office for Suicide Prevention is created
10 as a unit of the Office of Drug Control within the Executive
11 Office of the Governor.
12 (2) The statewide office shall, within available
13 resources:
14 (a) Develop a network of community-based programs to
15 improve suicide prevention initiatives. The network shall
16 identify and work to eliminate barriers to providing suicide
17 prevention services to individuals who are at risk of suicide.
18 The network shall consist of stakeholders advocating suicide
19 prevention, including, but not limited to, not-for-profit
20 suicide prevention organizations, faith-based suicide prevention
21 organizations, law enforcement agencies, first responders to
22 emergency calls, suicide prevention community coalitions,

23 schools and universities, mental health agencies, substance
24 abuse treatment agencies, health care providers, and school
25 personnel.
26 (b) Prepare and implement the statewide plan with the
27 advice of the Suicide Prevention Coordinating Council.
28 (c) Increase public awareness concerning topics relating
29 to suicide prevention.
30 (d) Coordinate education and training curricula in suicide
31 prevention efforts for law enforcement personnel, first
32 responders to emergency calls, health care providers, school
33 employees, and other persons who may have contact with persons
34 at risk of suicide.
35 (3) Contingent upon a specific appropriation, the director
36 of the Office of Drug Control shall employ a coordinator for the
37 Statewide Office for Suicide Prevention who shall work under the
38 direction of the director to achieve the goals and objectives
39 set forth in this section.
40 (4) The Statewide Office for Suicide Prevention may seek
41 and accept grants or funds from any federal, state, or local
42 source to support the operation and defray the authorized
43 expenses of the office and the Suicide Prevention Coordinating
44 Council. Revenues from grants shall be deposited in the Grants
45 and Donations Trust Fund within the Executive Office of the
46 Governor. In accordance with s. 216.181(11), the Executive
47 Office of the Governor may request changes to the approved
48 operating budget to allow the expenditure of any additional
49 grant funds collected pursuant to this subsection.
50 (5) Agencies under the control of the Governor or the
51 Governor and Cabinet are directed, and all others are
52 encouraged, to provide information and support to the Statewide
53 Office for Suicide Prevention as requested.

54 Section 2. Section 14.20195, Florida Statutes, is created
55 to read:
56 14.20195 Suicide Prevention Coordinating Council;
57 creation; membership; duties.--There is created within the
58 Statewide Office for Suicide Prevention a Suicide Prevention
59 Coordinating Council. The council shall develop strategies for
60 preventing suicide.
61 (1) SCOPE OF ACTIVITY.--The Suicide Prevention
62 Coordinating Council is a coordinating council as defined in s.
63 20.03 and shall:
64 (a) Advise the Statewide Office for Suicide Prevention
65 regarding the development of a statewide plan for suicide
66 prevention, with the guiding principle being that suicide is a
67 preventable problem. The statewide plan must:
68 1. Align and provide direction for statewide suicide
69 prevention initiatives.
70 2. Establish partnerships with state and private agencies
71 for the purpose of promoting public awareness of suicide
72 prevention.
73 3. Address specific populations in this state who are at
74 risk for suicide.
75 4. Identify ways to improve access to crisis services for
76 individuals in acute situations.
77 5. Identify resources to support the implementation of the
78 statewide plan.
79 (b) Assemble an ad hoc advisory committee comprised of
80 members from outside the council, if necessary, in order for the
81 council to receive advice and assistance in carrying out its
82 responsibilities.
83 (c) Make findings and recommendations regarding suicide
84 prevention programs and activities. The council shall prepare an

85 annual report and present it to the Governor, the President of
86 the Senate, and the Speaker of the House of Representatives by
87 January 1, 2008, and each year thereafter. The annual report
88 must describe the status of existing and planned initiatives
89 identified in the statewide plan for suicide prevention and any
90 recommendations arising therefrom.

91 (2) MEMBERSHIP.--The Suicide Prevention Coordinating
92 Council shall consist of 28 voting members.

93 (a) Fourteen members shall be appointed by the director of
94 the Office of Drug Control and shall represent the following
95 organizations:

96 1. The Substance Abuse and Mental Health Corporation
97 described in s. 394.655.

98 2. The Florida Association of School Psychologists.

99 3. The Florida Sheriffs Association.

100 4. The Suicide Prevention Action Network USA.

101 5. The Florida Initiative of Suicide Prevention.

102 6. The Florida Suicide Prevention Coalition.

103 7. The Alzheimer's Association.

104 8. The Florida School Board Association.

105 9. Volunteer Florida.

106 10. The state chapter of AARP.

107 11. The Florida Alcohol and Drug Abuse Association.

108 12. The Florida Council for Community Mental Health.

109 13. The Florida Counseling Association.

110 14. NAMI Florida.

111 (b) The following state officials or their designees shall
112 serve on the coordinating council:

113 1. The Secretary of Elderly Affairs.

114 2. The Secretary of Health.

115 3. The Commissioner of Education.

116 4. The Secretary of Health Care Administration.
117 5. The Secretary of Juvenile Justice.
118 6. The Secretary of Corrections.
119 7. The executive director of the Department of Law
120 Enforcement.
121 8. The executive director of the Department of Veterans'
122 Affairs.
123 9. The Secretary of Children and Family Services.
124 10. The director of the Agency for Workforce Innovation.
125 (c) The Governor shall appoint four additional members to
126 the coordinating council. The appointees must have expertise
127 that is critical to the prevention of suicide or represent an
128 organization that is not already represented on the coordinating
129 council.
130 (d) For the members appointed by the director of the
131 Office of Drug Control, seven members shall be appointed to
132 initial terms of 3 years, and seven members shall be appointed
133 to initial terms of 4 years. For the members appointed by the
134 Governor, two members shall be appointed to initial terms of 4
135 years, and two members shall be appointed to initial terms of 3
136 years. Thereafter, such members shall be appointed to terms of 4
137 years. Any vacancy on the coordinating council shall be filled
138 in the same manner as the original appointment, and any member
139 who is appointed to fill a vacancy occurring because of death,
140 resignation, or ineligibility for membership shall serve only
141 for the unexpired term of the member's predecessor. A member is
142 eligible for reappointment.
143 (e) The director of the Office of Drug Control shall be a
144 nonvoting member of the coordinating council and shall act as
145 chair.

146 (f) Members of the coordinating council shall serve
147 without compensation. Any member of the coordinating council who
148 is a public employee is entitled to reimbursement for per diem
149 and travel expenses as provided in s. 112.061.
150 (3) MEETINGS.--The coordinating council shall meet at
151 least quarterly or upon the call of the chair. The council
152 meetings may be held via teleconference or other electronic
153 means.
154 Section 3. Two full-time equivalent positions are
155 authorized, and the sum of $150,000 is appropriated from the
156 General Revenue Fund to the Office of Drug Control for the
157 purpose of implementing this act during the 2007-2008 fiscal
158 year.
159 Section 4. This act shall take effect July 1, 2007.
160
161 ================= T I T L E A M E N D M E N T =================
162 Remove the entire title and insert:
163 A bill to be entitled
164 An act relating to suicide prevention; creating s.
165 14.2019, F.S.; creating the Statewide Office for Suicide
166 Prevention as a unit of the Office of Drug Control in the
167 Executive Office of the Governor; providing the goals and
168 objectives of the office; creating the position of
169 statewide coordinator for the statewide office, contingent
170 upon a specific appropriation; authorizing the Statewide
171 Office for Suicide Prevention to seek and accept grants or
172 funds from any source to support its operation; requiring
173 that revenues from grants be deposited into the Grants and
174 Donations Trust Fund within the Executive Office of the
175 Governor; creating s. 14.20195, F.S.; creating the Suicide
176 Prevention Coordinating Council within the Statewide

177 Office for Suicide Prevention; providing the scope of
178 activities for the coordinating council; authorizing the
179 coordinating council to assemble an ad hoc committee to
180 advise the coordinating council; providing for membership
181 on the coordinating council; providing an appropriation
182 and authorizing additional positions; providing an
183 effective date.

HB 281

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 281 Paramedic Certification
SPONSOR(S): Kreegel
TIED BILLS: **IDEN./SIM. BILLS:** SB 1700

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Health Quality	10 Y, 0 N	Guy	Lowell
2) Healthcare Council		Guy	Gormley
3)			
4)			
5)			

SUMMARY ANALYSIS

The bill adds physician assistants within the list of health care practitioners who are exempt from certain requirements for paramedic certification.

The bill does not appear to have any fiscal impact to state or local governments.

The effective date of this bill is July 1, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Limited Government—The bill adds physician assistants within the list of health care practitioners who are exempt from certain requirements for paramedic certification.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Emergency Medical Technicians and Paramedics

Part III, chapter 401, Florida Statutes, provides for the regulation of emergency medical technicians and paramedics by the Department of Health ("department"). Any person who wishes to be certified as an emergency medical technician or paramedic must apply to the department, under oath, on forms provided by the department. An applicant for certification must do the following:

- complete the most recent emergency medical technician or paramedic training course as provided for by the United States Department of Transportation and as approved by the department.
- With respect to paramedics, within 1 year after course completion, pass a state-developed certification examination.
- With respect to emergency medical technicians, within 1 year after course completion, pass the National Registry of Emergency Medical Technicians-developed certification examination.
- Certify under oath that he or she is not addicted to alcohol or any controlled substance.
- Certify under oath that he or she is free from any physical or mental defect or disease that might impair the applicant's ability to perform his or her duties.
- With respect to paramedic certification, hold a certificate of successful course completion of advanced cardiac life support from the American Heart Association or the Continuing Education Coordinating Board for Emergency Medical Services (CECBEMS).
- With respect to emergency medical technician certification, hold either a current American Heart Association, American Red Cross or the (CECBEMS) cardiopulmonary resuscitation course card.

Emergency medical technicians and paramedics must renew their certification on a biennial basis. Renewal candidates are subject to continuing education requirements and demonstration of current certifications. Renewal candidates must take 30 hours of refresher training in their respective area and an additional 2 hours of HIV AIDS training.[1]

There are approximately 18,456 paramedics and 30,010 emergency medical technicians (EMTs) in Florida.[2] Each paramedic and emergency medical technician employed within an emergency medical services system must operate under the direct supervision of a physician medical director, or indirectly by standing orders or protocols. Each emergency medical system agency employs or contracts with a physician medical director to provide this medical oversight and quality assurance. The larger emergency medical system providers in Florida have more than 1,000 emergency medical technicians and paramedics on staff, all of them working under one medical director.

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[1] Certification renewal requirements for paramedics and emergency medical technicians may be found in 64E-2.009 and 64E-2.008, Florida Administrative Code, respectively.

[2] Florida Department of Health, Division of Medical Quality Assurance Annual Report 2005-2006.

Medical directors must supervise and assume direct responsibility for the medical performance of the emergency medical technicians and paramedics, and must perform duties including advising, consulting, training, counseling, and overseeing of services. This includes appropriate quality assurance but does not include administrative or managerial functions. Each medical director is required to establish a quality assurance committee to provide reviews of all emergency medical technicians and paramedics operating under the director's supervision.

Physician Assistants

Sections 458.347(7), and 459.022(7), Florida Statutes, govern the licensure of physician assistants in Florida. Physician assistants are licensed by the department and are regulated by the Florida Board of Medicine or the Florida Board of Osteopathic Medicine. Among other requirements, an applicant for licensure as a physician assistant must demonstrate passage of the National Commission on Certification of Physician Assistants examination and submit certification of completion of a physician assistant training program. Fees for licensure and renewal are set in statute. Applicants for renewal must complete 100 hours of continuing medical education every two years or hold a current certification issued by the National Commission on Certification of Physician Assistants. There are currently 3,675 active, licensed physician assistants practicing in the state of Florida.[3]

Paramedic Certification for Physicians, Dentists, and Nurses

Section 401.27(7), Florida Statutes, authorizes a physician, dentist, or registered nurse to be certified as a paramedic if the practitioner is certified as an emergency medical technician and successfully completes the emergency medical technician course, the paramedic examination, and an advanced cardiac life support course. However, a physician, dentist, or registered nurse is not required to complete the paramedic training course. Once certified as a paramedic, physicians, dentists, and registered nurses are still subject to all criteria for licensure and renewal of licensure in their respective practice acts.

Effect of Proposed Changes

The bill extends the paramedic training course exemption for practitioners contained in section 401.27(7), Florida Statutes, to physician assistants. Physician assistants would be subject to the same process for certification as other practitioners listed in section 401.27(7), Florida Statutes. In addition, physician assistants are licensed by the department and thus would be subject to all criteria for licensure or renewal of licensure as a physician assistant while certified as a paramedic.

C. SECTION DIRECTORY:

Section 1: Amends s. 401.27, F.S., allowing physician assistants to be certified as paramedics.

Section 2: Provides for an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

[3] The Florida Department of Health, Division of Medical Quality Assurance Annual Report 2005-2006.

According to department staff, certification of physician assistants as paramedics will not increase the workload for department staff and consequently will not result in a significant fiscal impact on the department.

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:

No additional rule-making authority is required as a result of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

N/A.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to paramedic certification; amending s.
3 401.27, F.S.; authorizing physician assistants who meet
4 specified criteria to be certified as paramedics;
5 providing an effective date.
6
7 Be It Enacted by the Legislature of the State of Florida:
8
9 Section 1. Subsection (7) of section 401.27, Florida
10 Statutes, is amended to read:
11 401.27 Personnel; standards and certification.--
12 (7) A physician, physician assistant, dentist, or
13 registered nurse may be certified as a paramedic if the
14 physician, physician assistant, dentist, or registered nurse is
15 certified in this state as an emergency medical technician, has
16 passed the required emergency medical technician curriculum, has
17 successfully completed an advanced cardiac life support course,
18 has passed the examination for certification as a paramedic, and
19 has met other certification requirements specified by rule of
20 the department. A physician, physician assistant, dentist, or
21 registered nurse so certified must be recertified under this
22 section.
23 Section 2. This act shall take effect July 1, 2007.

HB 469

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 469 Informed Consent
SPONSOR(S): Hays and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1508

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Health Quality	10 Y, 0 N	Lowell	Lowell
2) Healthcare Council		Lowell	Gormley
3)			
4)			
5)			

SUMMARY ANALYSIS

This bill adds advanced registered nurse practitioners and physician assistants to the list of health care practitioners who are immune from a civil recovery under section 401.445, Florida Statutes, emergency examination and treatment of incapacitated persons, and section 766.103, Florida Statutes, the Florida Medical Consent Law.

This bill may implicate Article I, section 21 of the Florida Constitution, the right of access to the courts, by barring a civil recovery against advanced registered nurse practitioners and physician assistants under specific circumstances.

The bill does not appear to have any fiscal impact to state or local governments.

The bill takes effect July 1, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Advanced Registered Nurse Practitioners

Nurses are licensed and regulated by the Board of Nursing pursuant to part I of chapter 464, Florida Statutes. There are approximately 10,305 Advanced Registered Nurse Practitioners (ARNPs) in Florida[1]. ARNPs practice under a protocol with a supervising physician and are not required to be under direct supervision.

ARNPs perform medical acts of diagnosis, treatment, and operation pursuant to a protocol between the ARNP and a Florida-licensed medical doctor, osteopathic physician, or dentist. The degree and method of supervision is determined by the ARNP and the supervisor, must be appropriate for prudent health care providers under similar circumstances, and must be specifically identified in a written protocol.

Paramedics and Emergency Medical Technicians

Paramedics and emergency medical technicians are regulated under chapter 401, Florida Statutes, Medical Transportation and Services. There are approximately 18,456 paramedics and 30,010 emergency medical technicians (EMTs) in Florida[2]. Each paramedic and EMT employed within an Emergency Medical Services (EMS) system must operate under the direct supervision of a physician medical director, or indirectly by standing orders or protocols. Each EMS agency employs or contracts with a physician medical director to provide this medical oversight and quality assurance. The larger EMS providers in Florida have more than 1,000 EMTs and paramedics on staff, all of them working under one medical director.

Medical directors must supervise and assume direct responsibility for the medical performance of the EMTs and paramedics, and must perform duties including advising, consulting, training, counseling, and overseeing of services. This includes appropriate quality assurance, but does not include administrative or managerial functions. Each medical director is required to establish a quality assurance committee to provide reviews of all EMTs and paramedics operating under the director's supervision.

Physician Assistants

Sections 458.347(7), and 459.022(7), Florida Statutes, govern the licensure of physician assistants in Florida. Physician assistants are licensed by the department and regulated by either the Florida Board of Medicine or the Florida Board of Osteopathic Medicine. Among other requirements, an applicant for licensure as a physician assistant must demonstrate passage of the National Commission on Certification of Physician Assistants examination and submit certification of completion of a physician assistant training program. Applicants for renewal must complete 100 hours of continuing medical education every two years or hold a current certification issued by the National Commission on

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[1] The Florida Department of Health, Division of Medical Quality Assurance Annual Report 2005-2006.
[2] *Id.*

Certification of Physician Assistants. There are currently 3,675 active, licensed physician assistants practicing in the State of Florida.[3]

Informed Consent

In general, a health care practitioner may not treat a patient without his or her informed consent. In Florida, this general principle is codified in what is known as the "Florida Medical Consent Law."[4] This law prohibits a civil recovery for treating, examining, or operating upon a patient without his or her informed consent against a physician, chiropractic physician, podiatric physician, or dentist ("health care practitioners") under two circumstances.

In the first circumstance, the civil recovery is barred when:

- the action of the health care practitioner, in obtaining the consent of the patient or a person authorized to give consent for the patient, was in accordance with an accepted standard of medical practice among members of the medical profession with similar training and experience in the same or similar medical community; and
- a reasonable individual, from the information provided by the health care practitioner under the circumstances would have a general understanding of the procedure, the medically acceptable alternative procedures or treatments, and the substantial risks and hazards inherent in the proposed treatment or procedures, which are recognized among other health care practitioners in the same or similar community who perform similar treatments of procedures.

In the alternative, a civil recovery is also barred when the patient would reasonably, under the circumstances, have undergone such treatment or procedure had he or she been advised by the health care practitioner in the manner noted above. In addition, written consent to medical treatment given by a patient or another authorized person is presumptively valid.

Florida Patient's Bill of Rights and Responsibilities

Florida law delineates information that must be provided to the patient within the Patient's Bill of Rights and Responsibilities[5]. These rights include the right of a patient:

- to know the name, function, and qualifications of each health care provider who is providing medical services to the patient;
- to be given by his or her health care provider information concerning diagnosis, planned course of treatment, alternatives, risks, and prognosis, unless it is medically inadvisable or impossible to give this information to the patient, in which case the information must be given to the patient's guardian or a person designated as the patient's representative. A patient has the right to refuse this information; and
- to refuse any treatment based on information required by this paragraph, except as otherwise provided by law.

Emergency Examination and Treatment of Incapacitated Persons

Florida law also bars a civil recovery for an emergency examination or treatment without the patient's informed consent by an emergency medical technician, paramedic, physician, or any person acting under the direct medical supervision of a physician[6]. This immunity is available where the patient:

- at the time of examination or treatment is intoxicated, under the influence of drugs, or otherwise incapable of providing informed consent under s. 766.103, F.S.;
- at the time of examination or treatment is experiencing an emergency medical condition; and

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[3] *Id.*
[4] s. 766.103, F.S.
[5] s. 381.026, F.S.
[6] s. 401.445, F.S.

- would reasonably, under the circumstances, undergo the examination, treatment, or procedure if he or she were advised by the emergency medical technician, paramedic, or physician under section 766.103, Florida Statutes.

An examination or treatment must be limited to a reasonable examination of the patient to determine his or her medical condition and treatment reasonably necessary to alleviate the emergency medical condition or to stabilize the patient. If the patient reasonably appears to be incapacitated and refuses consent, the patient may be examined or treated if he or she needs emergency attention; however, unreasonable force may not be used.

Effect of Proposed Changes

The bill adds advanced registered nurse practitioners and physician assistants to the list of health care practitioners who are immune from a civil recovery under the Florida Medical Consent Law as well as section 401.445, Florida Statutes, emergency examination and treatment of incapacitated persons.

C. SECTION DIRECTORY:

Section 1. Amends s. 401.445, F.S., relating to immunity for medical personnel for emergency examination and treatment without consent of the patient.

Section 2. Amends s. 766.103, F.S., relating to immunity for medical personnel under the medical consent law.

Section 3. Provides an effective date of July 1, 2007.

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:

This bill may protect a larger number of health care practitioners from civil lawsuits, and thus large monetary judgments, where informed consent is at issue.

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:

This bill may implicate Article I, section 21 of the Florida Constitution, which states that the courts "shall be open to every person for redress of any injury, and justice shall be administered without sale, denial, or delay." The test for ensuring the right of access to the courts was declared in *Kluger v. White*, 281 So.2d 1 (Fla. 1973), in which the Florida Supreme Court held that the Legislature is without power to abolish or otherwise restrict a statutory law right that predated the adoption of the constitution or a common law right without providing a reasonable alternative remedy, unless there is a showing of an overpowering public necessity to limit or abolish such right and no alternative remedy of meeting such public necessity exists.

The Florida Supreme Court refined the *Kluger* test in *Smith v. Department of Ins.*, 507 So.2d 1080 (Fla. 1986). There, comprehensive tort reform legislation capping non-economic damages at $450,000 was challenged on the basis that it denied claimants access to the courts. In that case, the Court noted the *Kluger* test requires either (1) providing a reasonable alternative remedy or commensurate benefit, or (2) a legislative showing of overpowering public necessity for the abolishment of the right *and* no alternative method of meeting such public necessity. The Court noted that the right to sue and recover non-economic damages of any amount existed at the time the Florida Constitution was adopted. Consequently, the Court found the cap on non-economic damages unconstitutional as the Legislature did not provide an alternative remedy or commensurate benefit and the parties did not assert the existence of an overpowering public necessity.

B. RULE-MAKING AUTHORITY:

No additional rule-making authority is required as a result of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Paragraph (a)2. of subsection (3), section 766.103, F.S., appears to contain a drafting error. The end of the paragraph reads, "which are recognized among other physicians, osteopathic physicians, chiropractic physicians, podiatric physicians, or dentists in the same or similar community who perform similar treatments or procedures; or"; this language fails to reference advanced registered nurse practitioners or physician assistants.

D. STATEMENT OF THE SPONSOR

This bill will enhance access to medical care by more fully utilizing the skills and talents of our Physician Assistants and our Advanced Registered Nurse Practitioners.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On February 20, 2007, the Health Quality Committee adopted one amendment to the bill. The amendment corrects a drafting error by adding "advanced registered nurse practitioner" and "physician assistant" to the end of paragraph (a)2. of subsection (3).

The bill was reported favorably as amended.

1 A bill to be entitled
2 An act relating to informed consent; amending s. 401.445,
3 F.S.; adding additional medical personnel to provisions
4 allowing immunity for certain emergency examination and
5 treatment of incapacitated persons done without consent if
6 informed consent would have reasonably been given under
7 the medical consent law; conforming provisions; amending
8 s. 766.103, F.S.; adding additional medical personnel to
9 the medical consent law; providing an effective date.
10
11 Be It Enacted by the Legislature of the State of Florida:
12
13 Section 1. Subsections (1) and (2) of section 401.445,
14 Florida Statutes, are amended to read:
15 401.445 Emergency examination and treatment of
16 incapacitated persons.--
17 (1) No recovery shall be allowed in any court in this
18 state against any emergency medical technician, paramedic, or
19 physician as defined in this chapter, <u>any advanced registered</u>
20 <u>nurse practitioner certified under s. 464.012, or any physician</u>
21 <u>assistant licensed under s. 458.347 or s. 459.022,</u> or any person
22 acting under the direct medical supervision of a physician, in
23 an action brought for examining or treating a patient without
24 his or her informed consent if:
25 (a) The patient at the time of examination or treatment is
26 intoxicated, under the influence of drugs, or otherwise
27 incapable of providing informed consent as provided in s.
28 766.103;

29 (b) The patient at the time of examination or treatment is
30 experiencing an emergency medical condition; and
31 (c) The patient would reasonably, under all the
32 surrounding circumstances, undergo such examination, treatment,
33 or procedure if he or she were advised by the emergency medical
34 technician, paramedic, ~~or~~ physician, advanced registered nurse
35 practitioner, or physician assistant in accordance with s.
36 766.103(3).
37
38 Examination and treatment provided under this subsection shall
39 be limited to reasonable examination of the patient to determine
40 the medical condition of the patient and treatment reasonably
41 necessary to alleviate the emergency medical condition or to
42 stabilize the patient.
43 (2) In examining and treating a person who is apparently
44 intoxicated, under the influence of drugs, or otherwise
45 incapable of providing informed consent, the emergency medical
46 technician, paramedic, ~~or~~ physician, advanced registered nurse
47 practitioner, or physician assistant, or any person acting under
48 the direct medical supervision of a physician, shall proceed
49 wherever possible with the consent of the person. If the person
50 reasonably appears to be incapacitated and refuses his or her
51 consent, the person may be examined, treated, or taken to a
52 hospital or other appropriate treatment resource if he or she is
53 in need of emergency attention, without his or her consent, but
54 unreasonable force shall not be used.
55 Section 2. Subsection (3) of section 766.103, Florida
56 Statutes, is amended to read:

57 766.103 Florida Medical Consent Law.--
58 (3) No recovery shall be allowed in any court in this
59 state against any physician licensed under chapter 458,
60 osteopathic physician licensed under chapter 459, chiropractic
61 physician licensed under chapter 460, podiatric physician
62 licensed under chapter 461, ~~or~~ dentist licensed under chapter
63 466, advanced registered nurse practitioner certified under s.
64 464.012, or physician assistant licensed under s. 458.347 or s.
65 459.022 in an action brought for treating, examining, or
66 operating on a patient without his or her informed consent when:
67 (a)1. The action of the physician, osteopathic physician,
68 chiropractic physician, podiatric physician, ~~or~~ dentist,
69 advanced registered nurse practitioner, or physician assistant
70 in obtaining the consent of the patient or another person
71 authorized to give consent for the patient was in accordance
72 with an accepted standard of medical practice among members of
73 the medical profession with similar training and experience in
74 the same or similar medical community; and
75 2. A reasonable individual, from the information provided
76 by the physician, osteopathic physician, chiropractic physician,
77 podiatric physician, ~~or~~ dentist, advanced registered nurse
78 practitioner, or physician assistant, under the circumstances,
79 would have a general understanding of the procedure, the
80 medically acceptable alternative procedures or treatments, and
81 the substantial risks and hazards inherent in the proposed
82 treatment or procedures, which are recognized among other
83 physicians, osteopathic physicians, chiropractic physicians,

84 podiatric physicians, or dentists in the same or similar
85 community who perform similar treatments or procedures; or
86 (b) The patient would reasonably, under all the
87 surrounding circumstances, have undergone such treatment or
88 procedure had he or she been advised by the physician,
89 osteopathic physician, chiropractic physician, podiatric
90 physician, ~~or~~ dentist, advanced registered nurse practitioner,
91 or physician assistant in accordance with the provisions of
92 paragraph (a).
93 Section 3. This act shall take effect July 1, 2007.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No.2 (for drafter's use only)

Bill No. **0469**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	______	

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1 Council/Committee hearing bill: Healthcare Council
2 Representative(s) Hays offered the following:
3
4 **Amendment**
5 Remove line(s) 74 and insert:
6 the same or similar medical community as that of the person
7 treating, examining, or operating on the patient for whom the
8 consent is obtained; and

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. **469**

COUNCIL/COMMITTEE ACTION

ADOPTED __ (Y/N)

ADOPTED AS AMENDED __ (Y/N)

ADOPTED W/O OBJECTION __ (Y/N)

FAILED TO ADOPT __ (Y/N)

WITHDRAWN __ (Y/N)

OTHER ______

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1 Council/Committee hearing bill: Healthcare Council

2 Committee on Health Quality offered the following:

3

4 **Amendment**

5 Remove line 84 and insert:

6 podiatric physicians, ~~or~~ dentists, advanced registered nurse

7 practitioners, or physician assistants in the same or similar

8

This amendment was adopted in Health Quality and is traveling with the bill and requires no further action.

MATERIALS WILL BE AVAILABLE AT THE MEETING

PCB HCC 07-01

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB HCC 07-01 Trust Funds
SPONSOR(S): Healthcare Council and Representative Bean
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Healthcare Council		Massengale	Gormley
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

The bill terminates the Florida World War II Veterans Memorial Matching Trust Fund in the Department of Veterans' Affairs, repeals cross references, and provides for the disposition of remaining unobligated funds. The bill also makes two technical changes to delete an obsolete reference to the Community Resources Development Trust Fund that was previously terminated from the Department of Children and Family Services and removes a provision providing for the future repeal of the Biomedical Research Trust Fund in the Department of Health.

I. SUBSTANTIVE ANALYSIS

A. PRESENT SITUATION:

The Florida World War II Veterans Memorial Matching Trust Fund was created in 1999 to receive private donations and matching state funds to build a Florida World War II Veterans memorial. The memorial has since been completed, and the fund has a $24,386 unobligated remaining cash balance.

The Community Resources Development Trust Fund in the Department of Children and Family Services was terminated in 2004, but one cross reference remains in statute.

The Biomedical Research Trust Fund in the Department of Health was created to provide an annual and perpetual source of funding to support research initiatives that address the health care problems of Floridians in the areas of tobacco-related cancer, cardiovascular disease, stroke, and pulmonary disease. Estimated annual expenditures from this trust fund are $18.5 million. The trust fund is scheduled to terminate on July 1, 2008.

B. EFFECT OF PROPOSED CHANGES:

The bill terminates the Florida World War II Veterans Memorial Matching Trust Fund in the Department of Veterans' Affairs, repeals cross references, and transfers the remaining unobligated funds of $24,386 to the department's Grants and Donations Trust Fund for use by veterans in the State Veterans' Homes Program. The bill also makes two technical changes to delete an obsolete reference to the Community Resources Development Trust Fund that was previously terminated from the Department of Children and Family Services and removes a provision providing for the future repeal of the Biomedical Research Trust Fund in the Department of Health.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

The sections that delete an obsolete reference and remove a future repeal have no fiscal impact on state agencies or state funds, on local governments as a whole or on the private sector. The section that terminates the Florida World War II Veterans Memorial Matching Trust Fund specifies the transfer of the unobligated $24,386 cash balance to the Department of Veterans' Affairs Grants and Donations Trust Fund for use by veterans' in the State Veterans' Homes Program.

III. COMMENTS

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to trust funds; terminating the Florida
3 World War II Veterans Memorial Matching Trust Fund within
4 the Department of Veterans' Affairs; providing for the
5 disposition of balances in and revenues of the trust fund;
6 prescribing procedures for the termination of the trust
7 fund; repealing ss. 295.18, 295.181, 295.182, 295.183, and
8 295.185, F.S.; repealing the Florida World War II Veterans
9 Memorial Matching Trust Fund and related provisions of the
10 Florida World War II Veterans Memorial Act to conform to
11 the termination of the trust fund; amending s. 17.61,
12 F.S.; removing the Community Resources Development Trust
13 Fund within the Department of Children and Family Services
14 from among enumerated trust funds of the department that
15 are not excepted from required investment by the Chief
16 Financial Officer; amending s. 20.435, F.S.; removing the
17 scheduled termination of the Biomedical Research Trust
18 Fund within the Department of Health; providing an
19 effective date.
20
21 Be It Enacted by the Legislature of the State of Florida:
22
23 Section 1. (1) The Florida World War II Veterans Memorial
24 Matching Trust Fund, FLAIR number 50-2-755, within the Department
25 of Veterans' Affairs is terminated.
26 (2) All current balances remaining in, and all revenues of,
27 the trust fund shall be transferred to the Grants and Donations
28 Trust Fund within the Department of Veterans' Affairs, FLAIR
29 number 50-2-339.

30 (3) The Department of Veteran's Affairs shall pay any
31 outstanding debts and obligations of the terminated fund as soon
32 as practicable, and the Chief Financial Officer shall close out
33 and remove the terminated fund from the various state accounting
34 systems using generally accepted accounting principles concerning
35 warrants outstanding, assets, and liabilities.
36 Section 2. Sections 295.18, 295.181, 295.182, 295.183, and
37 295.185, Florida Statutes, are repealed.
38 Section 3. Paragraph (c) of subsection (3) of section
39 17.61, Florida Statutes, is amended to read:
40 17.61 Chief Financial Officer; powers and duties in the
41 investment of certain funds.--
42 (3)
43 (c) Except as provided in this paragraph and except for
44 moneys described in paragraph (d), the following agencies shall
45 not invest trust fund moneys as provided in this section, but
46 shall retain such moneys in their respective trust funds for
47 investment, with interest appropriated to the General Revenue
48 Fund, pursuant to s. 17.57:
49 1. The Agency for Health Care Administration, except for
50 the Tobacco Settlement Trust Fund.
51 2. The Agency for Persons with Disabilities, except for:
52 a. The Federal Grants Trust Fund.
53 b. The Tobacco Settlement Trust Fund.
54 3. The Department of Children and Family Services, except
55 for:
56 a. The Alcohol, Drug Abuse, and Mental Health Trust Fund.
57 ~~b. The Community Resources Development Trust Fund.~~
58 b.~~c.~~ The Refugee Assistance Trust Fund.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

V

59 c.~~d.~~ The Social Services Block Grant Trust Fund.
60 d.~~e.~~ The Tobacco Settlement Trust Fund.
61 e.~~f.~~ The Working Capital Trust Fund.
62 4. The Department of Community Affairs, only for the
63 Operating Trust Fund.
64 5. The Department of Corrections.
65 6. The Department of Elderly Affairs, except for:
66 a. The Federal Grants Trust Fund.
67 b. The Tobacco Settlement Trust Fund.
68 7. The Department of Health, except for:
69 a. The Federal Grants Trust Fund.
70 b. The Grants and Donations Trust Fund.
71 c. The Maternal and Child Health Block Grant Trust Fund.
72 d. The Tobacco Settlement Trust Fund.
73 8. The Department of Highway Safety and Motor Vehicles,
74 only for:
75 a. The DUI Programs Coordination Trust Fund.
76 b. The Security Deposits Trust Fund.
77 9. The Department of Juvenile Justice.
78 10. The Department of Law Enforcement.
79 11. The Department of Legal Affairs.
80 12. The Department of State, only for:
81 a. The Grants and Donations Trust Fund.
82 b. The Records Management Trust Fund.
83 13. The Executive Office of the Governor, only for:
84 a. The Economic Development Transportation Trust Fund.
85 b. The Economic Development Trust Fund.
86 14. The Florida Public Service Commission, only for the
87 Florida Public Service Regulatory Trust Fund.

88 15. The Justice Administrative Commission.
89 16. The state courts system.
90 Section 4. Paragraph (h) of subsection (1) of section
91 20.435, Florida Statutes, is amended to read:
92 20.435 Department of Health; trust funds.--
93 (1) The following trust funds are hereby created, to be
94 administered by the Department of Health:
95 (h) Biomedical Research Trust Fund.
96 1. Funds to be credited to the trust fund shall consist of
97 funds deposited pursuant to s. 215.5601 and any other funds
98 appropriated by the Legislature. Funds shall be used for the
99 purposes of the James and Esther King Biomedical Research Program
100 and the William G. "Bill" Bankhead, Jr., and David Coley Cancer
101 Research Program as specified in ss. 215.5602, 288.955, and
102 381.922. The trust fund is exempt from the service charges
103 imposed by s. 215.20.
104 2. Notwithstanding the provisions of s. 216.301 and
105 pursuant to s. 216.351, any balance in the trust fund at the end
106 of any fiscal year shall remain in the trust fund at the end of
107 the year and shall be available for carrying out the purposes of
108 the trust fund. The department may invest these funds
109 independently through the Chief Financial Officer or may
110 negotiate a trust agreement with the State Board of
111 Administration for the investment management of any balance in
112 the trust fund.
113 3. Notwithstanding s. 216.301 and pursuant to s. 216.351,
114 any balance of any appropriation from the Biomedical Research
115 Trust Fund which is not disbursed but which is obligated pursuant
116 to contract or committed to be expended may be carried forward

117 for up to 3 years following the effective date of the original
118 appropriation.
119 ~~4. The trust fund shall, unless terminated sooner, be~~
120 ~~terminated on July 1, 2008.~~
121 Section 5. This act shall take effect July 1, 2007.

PCB HCC 07-02

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB HCC 07-02 Tobacco education and prevention
SPONSOR(S): Healthcare Council and Representative Harrell
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Healthcare Council		Lowell	Gormley
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

This Proposed Council Bill requires the Department of Health to conduct a comprehensive, statewide tobacco education and prevention program consistent with the 1999 Best Practices for Comprehensive Tobacco Control Programs developed by the United States Centers for Disease Control and Prevention.

The bill creates the Tobacco Education and Prevention Advisory Council to advise the Secretary of Health as to the direction and scope of the program. The bill also creates a competitive grant and contract award program. Grants and contracts will be awarded by the Secretary of Health, in consultation with the council, on the basis of merit through a competitive, peer review process.

Article X, section 27 of the Florida Constitution requires the Legislature to annually appropriate for the program 15 percent of the total gross funds that tobacco companies paid to the State of Florida in 2005 under the Tobacco Settlement. This amount must be adjusted annually for inflation using the Consumer Price Index.

The effective date of this bill is July 1, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill creates a tobacco education and prevention program within the department, creates an advisory council, and authorizes the award of grants and contracts through a competitive, peer review process.

Empower families – The bill increases opportunities for local and statewide organizations to support and encourage prevention and cessation of tobacco use by parents and their children.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

National Best Practices for Comprehensive Tobacco Control Programs
In August of 1999, the United States Department of Health and Human Services, Centers for Disease Control and Prevention ("CDC") published *Best Practices for Comprehensive Tobacco Control Programs* ("best practices").[1] The best practices were developed from analyses of programs in California and Massachusetts, as well as from the CDC's involvement in providing technical assistance to Florida, Maine, Minnesota, Mississippi, Oregon, and Texas. The best practices are designed to help states develop comprehensive tobacco control programs and evaluate funding priorities. As noted by the CDC in the best practices, the four primary goals of a comprehensive tobacco control program are the following:

- Prevent the initiation of tobacco use among young people.
- Promote cessation among young people and adults.
- Eliminate nonsmokers' exposure to environmental tobacco smoke.
- Identify and eliminate disparities related to tobacco use and its effects among different population groups.

The CDC recommends the following components within each state's tobacco control program:[2]

- Community programs to reduce tobacco use.
- Chronic disease programs to reduce the burden of tobacco-related diseases.
- School programs.
- Enforcement.
- Statewide programs.
- Counter-marketing.
- Cessation programs;
- Surveillance and evaluation.
- Administration and management.

The following is a brief description of each component.

Community programs to reduce tobacco use. The CDC notes that this component should focus on four primary goals: (1) prevention of the initiation of tobacco use among young people; (2) cessation for current users of tobacco; (3) protection from environmental tobacco smoke; and (4) elimination of

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[1] *Best Practices for Comprehensive Tobacco Control Programs, August 1999* (visited March 9, 2007) http://www.cdc.gov/tobacco/tobacco_control_programs/stateandcommunity/best_practices/index.htm
[2] The CDC has informed staff that the *Best Practices* are being updated, which may result in the consolidation and renaming of some of the program components.

disparities in tobacco use among populations. In particular, the CDC states that effective community programs "involve people in their homes, work sites, schools, places of worship and entertainment, civic organizations, and other public places."

Chronic disease programs to reduce the burden of tobacco-related diseases. Examples of activities that may reduce the burden of tobacco-related diseases include: (1) community interventions that link tobacco control interventions with cardiovascular disease prevention; (2) counter-marketing to increase awareness of environmental tobacco smoke as a trigger for asthma; (3) training dental providers to counsel their patients on the role of tobacco use in the development of oral cancer; and (4) expanding cancer registries to monitor tobacco-related cancers.

School programs. The CDC notes that, since most people who are smokers start smoking before age 18, school-based programs are a "crucial part" of a state's prevention program. Specifically, education should be provided in elementary school and continued through and middle and high school.

Enforcement. The CDC best practices focus on two areas of enforcement: restriction on minors' access to tobacco and restrictions on smoking. Florida law currently addresses both of these areas.[3]

Statewide programs. The CDC states that these programs are a "major element" of the best practices. Examples of statewide programs include: (1) funding municipal organizations and networks to collect data and develop and implement culturally appropriate interventions; (2) sponsoring local, regional, and statewide training, conferences, and technical assistance on best practices; and (3) supporting innovative demonstration and research projects to prevent youth tobacco use, promote cessation, and promote smoke free communities.

Counter-marketing. According to the CDC, children are most susceptible to advertised brands and are three times more affected by advertising than adults. Consequently, a sustained counter-marketing campaign in intensity similar to tobacco advertising is needed. Counter-marketing consists of a number of approaches, including not only traditional print, radio, and television advertisements, but also press releases, media advocacy, and local events.

Cessation programs. The CDC notes that cessation programs may produce a quicker and larger short-term public health benefit than any other best practice component. Examples of cessation programs include: (1) covering treatment for tobacco use under both public and private insurance and (2) establishing population-based counseling and treatment programs, including cessation quitlines.

Surveillance and Evaluation. This component is necessary to assess program accountability and effectiveness. In particular, surveillance should monitor the decrease of the prevalence of tobacco use among young people and adults; per-capita tobacco consumption; and exposure to environmental tobacco smoke. In addition, evaluation programs should focus on individual program activities. The CDC recommends that 10 percent of the state's program budget be allocated for surveillance and evaluation.

Administration and management. The CDC recommends that 5 percent of the state's program budget be allocated to administration and management.

The Department of Health Tobacco Prevention Program

On August 25, 1997, the State of Florida entered into a settlement agreement with five tobacco companies, ending a lawsuit to recover Medicaid costs for tobacco-related illnesses. These five companies are Philip Morris, R.J. Reynolds, Brown & Williamson, Lorillard, and the United States Tobacco Company. As a result of the settlement agreement, in Fiscal Year 1997-98, Florida's tobacco prevention program began as the Youth Tobacco Pilot Program created in proviso.

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[3] *See* Part II of Chapter 386, F.S., the Clean Indoor Air Act. *Also see* s. 569.101, F.S. (prohibiting the sale of tobacco products to persons under the age of 18).

The program has evolved to placing a Tobacco Prevention Specialist in 39 county health departments. These specialists create comprehensive tobacco prevention programs in each of the 39 counties, specifically: (1) a youth initiation prevention component (SWAT); (2) a cessation component; and (3) second hand smoke reduction programs. The remaining 28 counties receive $10,000 to support the tobacco component of the Chronic Disease Program; these funds maybe used for SWAT support; cessation services; and secondhand smoke awareness. In addition, the department operates the "Florida Tobacco Quit-For-Life Line" quitline through contract with the American Cancer Society.

Amendment 4
On November 7, 2006, the people of the state of Florida adopted Amendment 4,[4] creating the Comprehensive Statewide Tobacco Education and Prevention Program. Under the amendment, the state is required to create a comprehensive, statewide program consistent with the CDC's 1999 best practices. In particular, the program must consist of the following program components:

- An advertising campaign, funded by at least one-third of the required annual appropriation;
- Evidence-based curricula and programs to educate youth about tobacco and discourage their use of it;
- Programs of local community-based partnerships;
- Enforcement of laws, regulations, and policies against the sale or other provision of tobacco to minors, and the possession of tobacco by minors; and
- Publicly-reported annual evaluations to ensure that moneys appropriated for the program are spent properly.

The amendment specifies that the Legislature must appropriate 15 percent of the total gross funds that tobacco companies paid to the State of Florida in 2005 under the Tobacco Settlement. This amount must be adjusted annually for inflation using the Consumer Price Index.

Effect of Proposed Changes

The Proposed Council Bill requires the Department of Health to conduct a comprehensive, statewide tobacco education and prevention program consistent with the 1999 Best Practices for Comprehensive Tobacco Control Programs developed by the United States Centers for Disease Control and Prevention.

The department is required to include the following components within the program:

- An advertising campaign.
- Cessation programs.
- Evaluations of community and statewide programs.
- Evidence-based curricula and programs.
- Programs of local-community based partnerships.
- Training of health care providers and smoking cessation counselors.

The bill also creates the Tobacco Education and Prevention Advisory Council ("council") in order to advise the Secretary of Health as to the direction and scope of the program. The council consists of 14 members:

- The Secretary of Health, or a designee.
- Two members appointed by the Commissioner of Education, of which one must be a school district superintendent.
- The CEO of the Florida Division of the American Cancer Society.
- The CEO of the Greater Southeast Affiliate of the American Heart Association.
- The CEO of the American Lung Association of Florida.
- Four members appointed by the Governor.
- Two members appointed by the Speaker of the House.

[4] Art. X, s. 27, Fla. Const.

- Two members appointed by the President of the Senate.

In addition, the council is also provided a number of specific duties:
- Providing advice on program priorities and emphases.
- Participating in periodic program evaluation.
- Recommending meaningful outcome measures.
- Recommending policies to encourage a coordinate response to tobacco use in the state.

The bill creates a competitive grant and contract award program that will award grants and contracts under the program components listed above. Grants and contracts will be awarded by the Secretary of Health, in consultation with the council, on the basis of merit through a competitive, peer review process.

Grant and contract awards are restricted by limiting: (1) the use of food and promotional items to no more than 2.5 percent of the total amount of the contract or grant; (2) overhead or indirect costs to no more than 7.5 percent of the total amount of the contract or grant; and (3) production fees, buyer commissions, and related costs to no more than 5 percent of the total advertising contract amount.

The department is required to annually report on the program's effectiveness, including a survey of youth attitudes and behavior towards tobacco, and the department's administrative expenses are limited to 5 percent of the total appropriation for the program.

C. SECTION DIRECTORY:

Section 1. Creates s. 381.84, F.S., relating to the Comprehensive Statewide Tobacco Education and Prevention Program.

Section 2. Provides an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   See fiscal comments below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The private sector will directly benefit from the availability of grant and contract awards under the program.

D. FISCAL COMMENTS:

Article X, section 27 of the Florida Constitution requires the Legislature to annually appropriate for the program 15 percent of the total gross funds that tobacco companies paid to the State of Florida in 2005 under the Tobacco Settlement. This amount must be adjusted annually for inflation using the Consumer Price Index. In addition, at least one third of this annual appropriation must be used for the advertising campaign component of the program.

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:

The department is provided rulemaking authority to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to tobacco education and prevention;
3 creating s. 381.84, F.S.; requiring the Department of
4 Health to conduct a statewide tobacco education and
5 prevention program; providing definitions; providing
6 legislative purpose and findings; establishing components
7 of the program; creating the Tobacco Education and
8 Prevention Advisory Council; providing membership and
9 duties of the council; providing reimbursement for travel
10 and other expenses for council members; requiring the
11 Secretary of Health to award grants in consultation with
12 the council; providing for the appointment of a peer
13 review panel to review proposals for funding; specifying
14 the use of funds appropriated under the program; requiring
15 an annual report by the department; providing rulemaking
16 authority; providing an effective date.
17
18 Be It Enacted by the Legislature of the State of Florida:
19
20 Section 1. Section 381.84, Florida Statutes, is created to
21 read:
22 381.84 Comprehensive Statewide Tobacco Education and
23 Prevention Program.--
24 (1) As used in this section and for purposes of the
25 provisions of s. 27, Art. X of the State Constitution, the term:
26 (a) "CDC" means the United States Centers for Disease
27 Control and Prevention.
28 (b) "Department" means the Department of Health.

29 (c) "Tobacco" means, without limitation, tobacco itself and
30 tobacco products that include tobacco and are intended or
31 expected for human use or consumption, including, but not limited
32 to, cigarettes, cigars, pipe tobacco, and smokeless tobacco.
33 (d) "Youth" means minors and young adults.
34 (2) It is the purpose of this section to implement s. 27,
35 Art. X of the State Constitution. The Legislature finds that s.
36 27, Art. X of the State Constitution is intended to require the
37 department to conduct a statewide tobacco education and
38 prevention program that focuses on youth tobacco use. The
39 Legislature further finds that the primary goals of the program
40 are to reduce the prevalence of tobacco use among youth and
41 adults, reduce per capita tobacco consumption, and reduce
42 exposure to environmental tobacco smoke.
43 (3) The department shall conduct a comprehensive, statewide
44 tobacco education and prevention program consistent with the
45 recommendations for effective program components contained in the
46 1999 Best Practices for Comprehensive Tobacco Control Programs of
47 the CDC, as amended by the CDC. The program shall include the
48 following components, each of which shall focus on educating
49 people, particularly youth and their parents, about the health
50 hazards of tobacco and discouraging the use of tobacco:
51 (a) An advertising campaign using, at a minimum, Internet,
52 print, radio, and television advertising, funded with a minimum
53 of one-third of the total annual appropriation required by s. 27,
54 Art. X of the State Constitution.
55 (b) Cessation programs, including counseling and treatment.
56 (c) Evaluation of the effectiveness of community and
57 statewide programs.

58 (d) Evidence-based curricula and programs, including
59 school-based and after-school programs, which involve youth,
60 educate youth about the health hazards of tobacco, help youth
61 develop skills to refuse tobacco, and demonstrate to youth how to
62 stop using tobacco.
63 (e) Programs of local community-based partnerships,
64 including programs for the prevention, detection, and early
65 intervention of smoking-related chronic diseases.
66 (f) Training of health care providers and smoking cessation
67 counselors.
68 (4) The Tobacco Education and Prevention Advisory Council
69 is created within the department.
70 (a) The council shall consist of 14 members, including:
71 1. The Secretary of Health, or a designee.
72 2. Two members appointed by the Commissioner of Education,
73 of whom one must be a school district superintendent.
74 3. The chief executive officer of the Florida Division of
75 the American Cancer Society, or a designee.
76 4. The chief executive officer of the Greater Southeast
77 Affiliate of the American Heart Association, or a designee.
78 5. The chief executive officer of the American Lung
79 Association of Florida, or a designee.
80 6. Four members appointed by the Governor, of whom two must
81 have expertise in the field of tobacco prevention and education
82 or smoking cessation.
83 7. Two members appointed by the President of the Senate, of
84 whom one must have expertise in the field of tobacco prevention
85 and education or smoking cessation.

86 8. Two members appointed by the Speaker of the House of
87 Representatives, of whom one must have expertise in the field of
88 tobacco prevention and education or smoking cessation.
89 (b) The appointments shall be for a 3-year term and shall
90 reflect the diversity of the state's population. A vacancy shall
91 be filled by appointment by the original appointing authority for
92 the unexpired portion of the term.
93 (c) An appointed member may not serve more than two
94 consecutive terms.
95 (d) The council shall annually elect from its membership
96 one member to serve as chairperson of the council and one member
97 to serve as vice chairperson.
98 (e) The council shall meet at least quarterly and upon the
99 call of the chairperson.
100 (f) Members of the council shall serve without compensation
101 but may be reimbursed for per diem and travel expenses pursuant
102 to s. 112.061.
103 (g) The department shall provide council members with
104 information and other assistance as is reasonably necessary to
105 assist the council in carrying out its responsibilities.
106 (5) The council shall advise the Secretary of Health as to
107 the direction and scope of the Tobacco Education and Prevention
108 Program. The responsibilities of the council include, but are not
109 limited to:
110 (a) Providing advice on program priorities and emphases.
111 (b) Providing advice on the overall program budget.
112 (c) Participating in periodic program evaluation.

113 (d) Assisting in the development of guidelines to ensure
114 fairness, neutrality, and adherence to the principles of merit
115 and quality in the conduct of the program.
116 (e) Assisting in the development of administrative
117 procedures relating to solicitation, review, and award of
118 contracts and grants, to ensure an impartial, high-quality peer
119 review system.
120 (f) Assisting in the development and supervision of peer
121 review panels.
122 (g) Reviewing reports of peer review panels and making
123 recommendations for contracts and grants.
124 (h) Recommending meaningful outcome measures through a
125 regular review of tobacco prevention and education strategies and
126 programs of other states and the Federal Government.
127 (i) Recommending policies to encourage a coordinated
128 response to tobacco use in this state, focusing specifically on
129 creating partnerships within and between the public and private
130 sectors.
131 (6) Contracts and grants for the program components
132 described in subsection (3) shall be awarded by the Secretary of
133 Health, after consultation with the council, on the basis of
134 merit, as determined by an open, competitive, peer review process
135 that ensures objectivity, consistency, and high quality. A
136 recipient of a contract or grant for the program component
137 described in paragraph (3)(c) shall not be eligible for a
138 contract or grant award for any other program component described
139 in subsection (3) in the same state fiscal year.
140 (a) To ensure that all proposals for funding are
141 appropriate and are evaluated fairly on the basis of merit, the

142 Secretary of Health, in consultation with the council, shall
143 appoint a peer review panel of independent, qualified experts in
144 the field of tobacco control to review the content of each
145 proposal and establish its priority score. The priority scores
146 shall be forwarded to the council and must be considered in
147 determining which proposals shall be recommended for funding.
148 (b) The council and the peer review panel shall establish
149 and follow rigorous guidelines for ethical conduct and adhere to
150 a strict policy with regard to conflict of interest. A member of
151 the council or panel may not participate in any discussion or
152 decision with respect to a research proposal by any firm, entity,
153 or agency with which the member is associated as a member of the
154 governing body or as an employee or with which the member has
155 entered into a contractual arrangement. Meetings of the council
156 and the peer review panels shall be subject to the provisions of
157 chapter 119, s. 286.011, and s. 24, Art. I of the State
158 Constitution.
159 (c) In each contract or grant agreement, the department
160 shall limit the use of food and promotional items to no more than
161 2.5 percent of the total amount of the contract or grant and
162 limit overhead or indirect costs to no more than 7.5 percent of
163 the total amount of the contract or grant. The department, in
164 consultation with the Department of Financial Services, shall
165 publish guidelines for appropriate food and promotional items.
166 (d) In each advertising contract, the department shall
167 limit the total of production fees, buyer commissions, and
168 related costs to no more than 5 percent of the total contract
169 amount.

170 (7) By January 31 of each year, the department shall
171 provide to the Governor, the President of the Senate, and the
172 Speaker of the House of Representatives a report that evaluates
173 the program's effectiveness in reducing and preventing tobacco
174 use and that recommends improvements to enhance the program's
175 effectiveness. The report shall contain, at a minimum, an annual
176 survey of youth attitudes and behavior toward tobacco, as well as
177 a description of the progress in reducing the prevalence of
178 tobacco use among youth and adults, reducing per capita tobacco
179 consumption, and reducing exposure to environmental tobacco
180 smoke.
181 (8) From the total funds appropriated for the Comprehensive
182 Statewide Tobacco Education and Prevention Program in the General
183 Appropriations Act, an amount of up to 5 percent may be used by
184 the department for administrative expenses.
185 (9) The department may adopt rules pursuant to ss.
186 120.536(1) and 120.54 necessary to implement this section.
187 Section 2. This act shall take effect July 1, 2007.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

V

PCB HCC 07-10

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB HCC 07-10 biomedical research funding
SPONSOR(S): Healthcare Council
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Healthcare Council		Gormley	Gormley
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

The bill amends the James and Esther King Biomedical Research Program to consolidate processes for awarding funds appropriated by the Legislature for biomedical research. To accomplish this purpose, the bill revises provisions relating to funding and broadens the long-term goals of the program. The bill also amends the membership requirements of the Biomedical Research Advisory Council and provides that the council serve as the exclusive source of state funding form biomedical research. The bill requires establishment of certain committees, revises duties of the council and prohibits the use of state funds for certain research with human embryonic stem cells. The bill deletes requirements for other entities to establish and implement grant funding programs and revises or repeals other sections of statute in order to conform to the consolidation of these activities under the James and Esther King Biomedical Research Program.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government—The bill consolidates under a single entity, the James and Esther King Biomedical Research Program, similar or redundant functions for providing grants for biomedical research.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida Statutes define at least ten different programs with some responsibility for making biomedical research grants. Five other state authorized corporations, commissions, and councils are charged with various responsibilities for generating and awarding research grants, or otherwise stimulating research programs in the state. Another 15 advisory groups and councils are given statutory responsibilities for programs involving medical research. Although connected by a common theme and purpose, these various programs operate independently, sometimes redundantly to focus on selected diseases, narrowly defined objectives, and single-purpose initiatives.

In several of these cases, the legislation provides for annual allocations of state general revenue funds to be used for developing research capabilities or awarding research grants. Annual funding based in statute includes $9.5 million annually is appropriated to the James and Esther King Biomedical Research Program, $9 million to the William G. Bankhead and David Coley Cancer Research Program, and $15 million to the Johnny B. Byrd, Sr. Alzheimer's Institute. Additional funds for research may be allocated through the General Appropriations Act or raised by other means and awarded through various procedures by numerous state-authorized entities.

Effect of Proposed Changes

The bill amends the James and Esther King Biomedical Research Program to consolidate processes for awarding funds appropriated by the Legislature for biomedical research. To accomplish this purpose, the bill revises provisions relating to funding and broadens the long-term goals of the program. The bill also amends the membership requirements of the Biomedical Research Advisory Council and provides that the council serve as the exclusive source of state funding form biomedical research. The bill requires establishment of certain committees, revises duties of the council and prohibits the use of state funds for certain research with human embryonic stem cells. The bill deletes requirements for other entities to establish and implement grant funding programs and revises or repeals other sections of statute in order to conform to the consolidation of these activities under the James and Esther King Biomedical Research Program.

C. SECTION DIRECTORY:

Section 1. Amends 20.435(h)1,F.S., deleting reference to the William G. "Bill" Bankhead and David Coley Cancer Research Program.

Section 2. Amends 215.5602, F.S., as follows:

- Adding reference to the Biomedical Research Trust Fund pursuant to s. 20.435(1)(h).
- Broadening the purpose of the program to include research into diseases other than those that are tobacco-related.
- Provides that the James and Esther King Biomedical Research Program shall be the exclusive source of state funds for biomedical research;
- Revising the membership of the Biomedical Research Advisory Council to expand from 11 to 29 members and names specific organizations to be represented.

- Specifying that the Council shall be the exclusive source of recommendations for grant awards and directs the Council to establish certain committees.
- Expanding the subjects to be covered in the Council's annual report.
- Prohibiting funds appropriated for biomedical research to be used for research with human embryonic stem cells derived from a process resulting from the death or destruction of the donor embryo or human cloning.

Section 3. Amends s. 381.853, F.S., limiting the purposes of the Florida Center for Brain Tumor Research regarding grant awards.

Section 4. Amends s. 381.912, F.S., eliminating references to the Center for Universal Research to Eradicate Disease.

Section 5 Amends s. 381.92(3), F.S., eliminating references to the Center for Universal Research to Eradicate Disease.

Section 6. Amends s. 381.921, F.S., eliminating references to the Center for Universal Research to Eradicate Disease and limiting the mission and duties of the Florida Cancer Council regarding awarding grants for biomedical research.

Section 7. Amends s. 381.98(8) and (12), F.S., eliminating references to the Center for Universal Research to Eradicate Disease.

Section 8. Repeals s. 381.855, F.S., relating to the William G. "Bill" Bankhead Jr. and the David Coley Cancer Research Program.

Section 9. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The bill eliminates $15 million in annual appropriations for biomedical research including $6 million for the James and Esther King Biomedical Research Program and $9 million for the William G. "Bill" Bankhead Jr. and the David Coley Cancer Research Program.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Consolidation of process for awarding state funds for biomedical research will make it easier for researchers, including those in the private sector, to identify and apply for available funding.

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:

No new rule-making authority is necessary.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill does not include language placing the consolidated funding sources within the James and Esther King Biomedical Research Program.

D. STATEMENT OF THE SPONSOR

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to biomedical research funding; amending
3 s. 20.435, F.S.; deleting a reference to conform to the
4 provisions of this act; amending s. 215.5602, F.S.;
5 revising provisions relating to the James and Esther King
6 Biomedical Research Program; revising provisions relating
7 to program funds and funding; revising long-term goals of
8 the program; revising membership provisions relating to
9 the Biomedical Research Advisory Council; providing that
10 the council serves as the exclusive source of certain
11 biomedical research grant and fellowship awards; requiring
12 the council to create committees; providing requirements
13 for the committees; revising duties of the council;
14 deleting references to conform to the provisions of this
15 act; revising a requirement relating to the council's
16 annual progress report; prohibiting the use of funds for
17 certain research with human embryonic stem cells; amending
18 s. 381.853, F.S.; deleting a requirement for the Florida
19 Center for Brain Tumor Research to develop a competitive
20 grant process relating to brain tumor research; amending
21 s. 381.921, F.S.; specifying that certain cancer research
22 funding shall be for research other than biomedical
23 research; amending ss. 381.912, 381.92, and 381.98, F.S.;
24 deleting references to conform to the provisions of this
25 act; repealing s. 381.855, F.S., relating to the Florida
26 Center for Universal Research to Eradicate Disease;
27 repealing s. 381.922, F.S., relating to the William "Bill"
28 Bankhead, Jr., and David Coley Cancer Research Program;
29 providing an effective date.

30

31 Be It Enacted by the Legislature of the State of Florida:

32

33 Section 1. Paragraph (h) of subsection (1) of section
34 20.435, Florida Statutes, is amended to read:
35 20.435 Department of Health; trust funds.--
36 (1) The following trust funds are hereby created, to be
37 administered by the Department of Health:
38 (h) Biomedical Research Trust Fund.
39 1. Funds to be credited to the trust fund shall consist of
40 funds deposited pursuant to s. 215.5601 and any other funds
41 appropriated by the Legislature. Funds shall be used for the
42 purposes of the James and Esther King Biomedical Research Program
43 ~~and the William G. "Bill" Bankhead, Jr., and David Coley Cancer~~
44 ~~Research Program~~ as specified in ss. 215.5602 and~~,~~ 288.955~~, and~~
45 ~~381.922~~. The trust fund is exempt from the service charges
46 imposed by s. 215.20.
47 2. Notwithstanding the provisions of s. 216.301 and
48 pursuant to s. 216.351, any balance in the trust fund at the end
49 of any fiscal year shall remain in the trust fund at the end of
50 the year and shall be available for carrying out the purposes of
51 the trust fund. The department may invest these funds
52 independently through the Chief Financial Officer or may
53 negotiate a trust agreement with the State Board of
54 Administration for the investment management of any balance in
55 the trust fund.
56 3. Notwithstanding s. 216.301 and pursuant to s. 216.351,
57 any balance of any appropriation from the Biomedical Research
58 Trust Fund which is not disbursed but which is obligated pursuant

59 to contract or committed to be expended may be carried forward
60 for up to 3 years following the effective date of the original
61 appropriation.
62 4. The trust fund shall, unless terminated sooner, be
63 terminated on July 1, 2008.
64 Section 2. Section 215.5602, Florida Statutes, is amended
65 to read:
66 215.5602 James and Esther King Biomedical Research
67 Program.--
68 (1) There is established within the Department of Health
69 the James and Esther King Biomedical Research Program funded by
70 the proceeds of the Lawton Chiles Endowment Fund pursuant to s.
71 215.5601 and the Biomedical Research Trust Fund within the
72 Department of Health pursuant to s. 20.435(1)(h). The purpose of
73 the James and Esther King Biomedical Research Program is to
74 provide an annual and perpetual source of funding for biomedical
75 ~~in order to support~~ research initiatives that address the health
76 care problems of Floridians, including tobacco-related diseases
77 ~~in the areas of tobacco-related cancer, cardiovascular disease,~~
78 ~~stroke, and pulmonary disease~~. The long-term goals of the program
79 are to:
80 (a) Improve the health of Floridians by researching better
81 prevention, diagnoses, treatments, and cures for the most deadly
82 and widespread diseases, including cancer, cardiovascular
83 disease, stroke, ~~and~~ pulmonary disease, diabetes, autoimmune
84 disorders, and neurological disorders, including Alzheimer's
85 disease, epilepsy, and Parkinson's disease.
86 (b) Expand the foundation of biomedical knowledge relating
87 to the prevention, diagnosis, treatment, and cure of diseases

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88 related to tobacco use, including cancer, cardiovascular disease,
89 stroke, and pulmonary disease.
90 (c) Expand the foundation of biomedical knowledge relating
91 to the prevention, diagnosis, treatment, and cure of the most
92 deadly and widespread diseases unrelated to tobacco use,
93 including cancer, cardiovascular disease, stroke, pulmonary
94 disease, diabetes, autoimmune disorders, and neurological
95 disorders, including Alzheimer's disease, epilepsy, and
96 Parkinson's disease.
97 (d) ~~(c)~~ Improve the quality of the state's academic health
98 centers by bringing the advances of biomedical research into the
99 training of physicians and other health care providers.
100 (e) ~~(d)~~ Increase the state's per capita funding for research
101 by undertaking new initiatives in public health and biomedical
102 research that will attract additional funding from outside the
103 state.
104 (f) ~~(e)~~ Stimulate economic activity in the state in areas
105 related to biomedical research, such as the research and
106 production of pharmaceuticals, biotechnology, and medical
107 devices.
108 (2) Funds appropriated for the James and Esther King
109 Biomedical Research Program shall be the exclusive source of
110 state funds used ~~exclusively~~ for the award of grants and
111 fellowships as established in this section; for research relating
112 to the prevention, diagnosis, treatment, and cure of the diseases
113 set forth in this section ~~related to tobacco use, including~~
114 ~~cancer, cardiovascular disease, stroke, and pulmonary disease~~;
115 and for expenses incurred in the administration of this section.

116 Priority shall be granted to research designed to prevent or cure
117 disease.
118 (3) There is created within the James and Esther King
119 Biomedical Research Program in the Department of Health the
120 Biomedical Research Advisory Council.
121 (a) The council shall consist of 29 ~~11~~ members, including:
122 the chief executive officer of Enterprise Florida, Inc., or a
123 designee; the chief executive officer of the Florida Division of
124 the American Cancer Society, or a designee; the chief executive
125 officer of the Florida/Puerto Rico Affiliate of the American
126 Heart Association, or a designee; ~~and~~ the chief executive officer
127 of the American Lung Association of Florida, or a designee; the
128 chief executive officer of the H. Lee Moffitt Cancer Center, or a
129 designee; the director of the University of Florida Shands Cancer
130 Center, or a designee; the chief executive officer of the
131 University of Miami Sylvester Comprehensive Cancer Center, or a
132 designee; the chief executive officer of the Mayo Clinic,
133 Jacksonville, or a designee; the president of the Florida Society
134 of Clinical Oncology, or a designee; the president of the
135 American College of Surgeons, Florida Chapter, or a designee; and
136 the chair of the Florida Dialogue on Cancer, or a designee. The
137 remaining 18 ~~8~~ members of the council shall be appointed as
138 follows:
139 1. The Governor shall appoint eight ~~four~~ members, two
140 members with expertise in the field of biomedical research, one
141 member from a research university in the state, one
142 representative of the Epilepsy Foundation, one representative of
143 the Florida Medical Foundation, two members from the Florida

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144 Cancer Council, and one member representing the general
145 population of the state.
146 2. The President of the Senate shall appoint five ~~two~~
147 members, one member with expertise in the field of behavioral or
148 social research, one representative of BioFlorida, one
149 representative of Pharmaceutical Research and Manufacturers of
150 America, one representative of the South Coastal Region of the
151 American Diabetes Association, and one representative from a
152 cancer program approved by the American College of Surgeons.
153 3. The Speaker of the House of Representatives shall
154 appoint five ~~two~~ members, one representative of the National
155 Parkinson Foundation, one representative of the Alzheimer's
156 Association, one representative of the Florida Research
157 Consortium, one member from a professional medical organization,
158 and one representative from a cancer program approved by the
159 American College of Surgeons.
160
161 In making these appointments, the Governor, the President of the
162 Senate, and the Speaker of the House of Representatives shall
163 select primarily, but not exclusively, Floridians with biomedical
164 and lay expertise in the general areas of cancer, cardiovascular
165 disease, stroke, ~~and~~ pulmonary disease, diabetes, autoimmune
166 disorders, and neurological disorders, including Alzheimer's
167 disease, epilepsy, and Parkinson's disease. The appointments
168 shall be for a 3-year term and shall reflect the diversity of the
169 state's population. An appointed member may not serve more than
170 two consecutive terms.
171 (b) The council shall serve as the exclusive source of
172 awarding or recommending the award of grants or fellowships for

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173 biomedical research in the state using state-appropriated funds.
174 This paragraph shall not preclude another grant or fellowship
175 program in the state from awarding grants from funds received
176 from private or federal sources where permitted by state law.
177 (c)1. The council shall create a committee responsible for
178 each of the following research areas:
179 a. Tobacco-related diseases.
180 b. Cancer, including brain tumor research.
181 c. Stroke.
182 d. Cardiovascular disease.
183 e. Pulmonary disease.
184 f. Diabetes.
185 g. Autoimmune disorders.
186 h. Alzheimer's disease.
187 i. Parkinson's disease.
188 j. Neurological disorders, including epilepsy.
189 2. The committees shall be comprised of council members and
190 shall focus on issues and proposed research related to that
191 committee. The committees shall report findings and make
192 recommendations to the council regarding the award of grants and
193 the areas of focus or need for future grants and fellowships.
194 (d) ~~(b)~~ The council shall adopt internal organizational
195 procedures as necessary for its efficient organization, including
196 procedures for assigning council members to committees and
197 coordination between the council and committees.
198 (e) ~~(c)~~ The department shall provide such staff,
199 information, and other assistance as is reasonably necessary to
200 assist the council, including its committees, in carrying out its
201 responsibilities.

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202 (f) ~~(d)~~ Members of the council shall serve without
203 compensation, but may receive reimbursement as provided in s.
204 112.061 for travel and other necessary expenses incurred in the
205 performance of their official duties.
206 (4) The council, after consulting with its committees,
207 shall advise the Secretary of Health as to the direction and
208 scope of the biomedical research program. The responsibilities of
209 the council may include, but are not limited to:
210 (a) Providing advice on program priorities and emphases.
211 (b) Providing advice on the overall program budget.
212 (c) Participating in periodic program evaluation.
213 (d) Assisting in the development of guidelines to ensure
214 fairness, neutrality, and adherence to the principles of merit
215 and quality in the conduct of the program.
216 (e) Assisting in the development of appropriate linkages to
217 nonacademic entities, such as voluntary organizations, health
218 care delivery institutions, industry, government agencies, and
219 public officials.
220 (f) Developing criteria and standards for the award of
221 research grants.
222 (g) Developing administrative procedures relating to
223 solicitation, review, and award of research grants and
224 fellowships, to ensure an impartial, high-quality peer review
225 system.
226 (h) Developing and supervising research peer review panels.
227 (i) Reviewing reports of peer review panels and making
228 recommendations for research grants and fellowships.
229 (j) Developing and providing oversight regarding mechanisms
230 for the dissemination of research results.

231 (5)(a) Applications for biomedical research funding under
232 the program may be submitted from any university or established
233 research institute in the state. All qualified investigators in
234 the state, regardless of institution affiliation, shall have
235 equal access and opportunity to compete for the research funding.
236 (b) The council, after consulting with its committees,
237 shall recommend the award of grants and fellowships for
238 biomedical research to the Secretary of Health, who shall make
239 the award ~~Grants and fellowships shall be awarded by the~~
240 ~~Secretary of Health, after consultation with the council,~~ on the
241 basis of scientific merit, as determined by an open competitive
242 peer review process that ensures objectivity, consistency, and
243 high quality. The following types of applications shall be
244 considered for funding:
245 1. Investigator-initiated research grants.
246 2. Institutional research grants.
247 3. Predoctoral and postdoctoral research fellowships.
248 (6) To ensure that all proposals for research funding are
249 appropriate and are evaluated fairly on the basis of scientific
250 merit, the Secretary of Health, in consultation with the council,
251 shall appoint a peer review panel of independent, scientifically
252 qualified individuals to review the scientific content of each
253 proposal and establish its scientific priority score. The
254 priority scores shall be forwarded to the council and its
255 committees and must be considered in determining which proposals
256 shall be recommended for funding.
257 (7) The council, the committees, and the peer review panel
258 shall establish and follow rigorous guidelines for ethical
259 conduct and adhere to a strict policy with regard to conflict of

260 interest. A member of the council or panel may not participate in
261 any discussion or decision with respect to a research proposal by
262 any firm, entity, or agency with which the member is associated
263 as a member of the governing body or as an employee, or with
264 which the member has entered into a contractual arrangement.
265 Meetings of the council and the peer review panels shall be
266 subject to the provisions of chapter 119, s. 286.011, and s. 24,
267 Art. I of the State Constitution.
268 (8) The department may contract on a competitive-bid basis
269 with an appropriate entity to administer the program.
270 Administrative expenses may not exceed 15 percent of the total
271 funds available to the program in any given year.
272 (9) The department, after consultation with the council,
273 may adopt rules as necessary to implement this section.
274 (10) The council shall submit an annual progress report on
275 the state of biomedical research in this state ~~to the Florida~~
276 ~~Center for Universal Research to Eradicate Disease and~~ to the
277 Governor, the Secretary of Health, the President of the Senate,
278 and the Speaker of the House of Representatives by February 1.
279 The report must include:
280 (a) A list of research projects supported by grants or
281 fellowships awarded under the program.
282 (b) A list of recipients of program grants or fellowships.
283 (c) A list of publications in peer reviewed journals
284 involving research supported by grants or fellowships awarded
285 under the program.
286 (d) The total amount of biomedical research funding
287 currently flowing into the state.

288 (e) New grants for biomedical research which were funded
289 based on research supported by grants or fellowships awarded
290 under the program.
291 (f) Progress in the prevention, diagnosis, treatment, and
292 cure of the most deadly and widespread diseases, including
293 cancer, cardiovascular disease, stroke, pulmonary disease,
294 diabetes, autoimmune disorders, and neurological disorders,
295 including Alzheimer's disease, epilepsy, and Parkinson's disease
296 ~~diseases related to tobacco use, including cancer, cardiovascular~~
297 ~~disease, stroke, and pulmonary disease~~.
298 ~~(11) The council shall award grants for cancer research~~
299 ~~through the William G. "Bill" Bankhead, Jr., and David Coley~~
300 ~~Cancer Research Program created in s. 381.922.~~
301 (11)~~(12)~~ Funds for the Biomedical Research Advisory Council
302 shall be ~~Beginning in fiscal year 2006-2007, the sum of $6~~
303 ~~million is~~ appropriated annually from recurring funds in the
304 General Revenue Fund to the Biomedical Research Trust Fund within
305 the Department of Health for purposes of the James and Esther
306 King Biomedical Research Program pursuant to this section. From
307 these funds up to $250,000 shall be available for the operating
308 costs of the James and Esther King Biomedical Research Program.
309 None of the funds appropriated for biomedical research pursuant
310 to this section shall be used for research with human embryonic
311 stem cells that are derived by a process resulting from the death
312 or destruction of the donor embryo or human cloning. If a grant
313 or fellowship recipient awarded a grant or fellowship for
314 biomedical research pursuant to this section uses state funds for
315 embryonic stem cell research or human cloning, the grant or
316 fellowship shall be immediately revoked and the council shall

317 have the right to seek recovery of the funds used for such
318 unauthorized purposes ~~Florida Center for Universal Research to~~
319 ~~Eradicate Disease~~.
320 (12) ~~(13)~~ By June 1, 2009, the Division of Statutory
321 Revision of the Office of Legislative Services shall certify to
322 the President of the Senate and the Speaker of the House of
323 Representatives the language and statutory citation of this
324 section, which is scheduled to expire January 1, 2011.
325 (13) ~~(14)~~ The Legislature shall review the performance, the
326 outcomes, and the financial management of the James and Esther
327 King Biomedical Research Program during the 2010 Regular Session
328 of the Legislature and shall determine the most appropriate
329 funding source and means of funding the program based on its
330 review.
331 (14) ~~(15)~~ This section expires January 1, 2011, unless
332 reviewed and reenacted by the Legislature before that date.
333 Section 3. Subsection (4) of section 381.853, Florida
334 Statutes, is amended to read:
335 381.853 Florida Center for Brain Tumor Research.--
336 (4) The Florida Center for Brain Tumor Research is
337 established within the Evelyn F. and William L. McKnight Brain
338 Institute of the University of Florida.
339 (a) The purpose of the center is to foster collaboration
340 with brain cancer research organizations and other institutions,
341 provide a central repository for brain tumor biopsies from
342 individuals throughout the state, improve and monitor brain tumor
343 biomedical research programs within the state, facilitate funding
344 opportunities, and foster improved technology transfer of brain

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345 tumor research findings into clinical trials and widespread
346 public use.
347 (b) The goal of the center is to find cures for brain
348 tumors.
349 (c) Funds specifically appropriated by the Legislature for
350 peer-reviewed brain tumor research shall be awarded using a
351 competitive grant process developed by the center; however, the
352 funds may not be used to award grants for or related to
353 biomedical research.
354 (d) The center shall hold an annual brain tumor biomedical
355 technology summit in the state to which scientists conducting
356 basic peer-reviewed scientific research from the state's public
357 and private universities, teaching hospitals, and for-profit and
358 nonprofit institutions are invited to share biomedical research
359 findings in order to expedite the discovery of cures. Summit
360 attendees shall cover the costs of such attendance or obtain
361 sponsorship for such attendance.
362 (e) The center shall encourage clinical trials in the state
363 on research that holds the promise of curing brain tumors. The
364 center shall facilitate the formation of partnerships between
365 researchers, physicians, clinicians, and hospitals for the
366 purpose of sharing new techniques and new research findings and
367 coordinating the voluntary donation of brain tumor biopsies.
368 (f) The center shall submit an annual report to the
369 Governor, the President of the Senate, the Speaker of the House
370 of Representatives, and the Secretary of Health no later than
371 January 15 that contains recommendations for legislative changes
372 necessary to foster a positive climate for the pursuit of brain

373 tumor research and the development of treatment modalities in the
374 state.
375 (g) The center shall be funded through private, state, and
376 federal sources.
377 Section 4. Subsection (1) of section 381.912, Florida
378 Statutes, is amended to read:
379 381.912 Cervical Cancer Elimination Task Force.--
380 (1) Effective July 1, 2004, the Cervical Cancer Elimination
381 Task Force is established for the purpose of recommending
382 strategies and actions to reduce the costs and burdens of
383 cervical cancer in Florida. The task force shall present interim
384 reports to the Florida Public Health Foundation, Inc., the
385 Florida Cancer Council, ~~the Center for Universal Research to~~
386 ~~Eradicate Disease,~~ the Governor, the President of the Senate, and
387 the Speaker of the House of Representatives on January 1, 2006,
388 and July 1, 2007, with a final report due on June 30, 2008. After
389 submitting its final report on or before June 30, 2008, the task
390 force is dissolved.
391 Section 5. Subsection (3) of section 381.92, Florida
392 Statutes, is amended to read:
393 381.92 Florida Cancer Council.--
394 (3) The council shall issue an annual report to ~~the Center~~
395 ~~for Universal Research to Eradicate Disease,~~ the Governor, the
396 Speaker of the House of Representatives, and the President of the
397 Senate by December 15 of each year, with policy and funding
398 recommendations regarding cancer research capacity in Florida and
399 related issues.
400 Section 6. Section 381.921, Florida Statutes, is amended to
401 read:

402 381.921 Florida Cancer Council mission and duties.--The
403 council~~, which shall work in concert with the Florida Center for~~
404 ~~Universal Research to Eradicate Disease to ensure that the goals~~
405 ~~of the center are advanced,~~ shall endeavor to dramatically
406 improve cancer research and treatment in this state through:
407 (1) Efforts to significantly expand cancer research
408 capacity in the state by:
409 (a) Identifying ways to attract new research talent and
410 attendant national grant-producing researchers to cancer research
411 facilities in this state;
412 (b) Implementing a peer-reviewed, competitive process to
413 identify and fund the best proposals to expand cancer research
414 institutes performing research other than biomedical research in
415 this state;
416 (c) Funding through available resources for those proposals
417 for research other than biomedical research that demonstrate the
418 greatest opportunity to attract federal research grants and
419 private financial support;
420 (d) Encouraging the employment of bioinformatics in order
421 to create a cancer informatics infrastructure that enhances
422 information and resource exchange and integration through
423 researchers working in diverse disciplines, to facilitate the
424 full spectrum of cancer investigations;
425 (e) Facilitating the technical coordination, business
426 development, and support of intellectual property as it relates
427 to the advancement of cancer research; and
428 (f) Aiding in other multidisciplinary research-support
429 activities as they inure to the advancement of cancer research.

430 (2) Efforts to improve both research and treatment through
431 greater participation in clinical trials networks by:
432 (a) Identifying ways to increase adult enrollment in cancer
433 clinical trials;
434 (b) Supporting public and private professional education
435 programs designed to increase the awareness and knowledge about
436 cancer clinical trials;
437 (c) Providing tools to cancer patients and community-based
438 oncologists to aid in the identification of cancer clinical
439 trials available in the state; and
440 (d) Creating opportunities for the state's academic cancer
441 centers to collaborate with community-based oncologists in cancer
442 clinical trials networks.
443 (3) Efforts to reduce the impact of cancer on disparate
444 groups by:
445 (a) Identifying those cancers that disproportionately
446 impact certain demographic groups; and
447 (b) Building collaborations designed to reduce health
448 disparities as they relate to cancer.
449 Section 7. Subsections (8) and (12) of section 381.98,
450 Florida Statutes, are amended to read:
451 381.98 The Florida Public Health Foundation, Inc.;
452 establishment; purpose; mission; duties; board of directors.--
453 (8) The corporation, in consultation with the Department of
454 Health ~~and the Florida Center for Universal Research to Eradicate~~
455 ~~Disease~~, shall facilitate communication between biomedical
456 researchers and health care providers each month according to the
457 health awareness schedule established by the Florida Public

458 Health Foundation, Inc., in order to ensure ongoing dialogue
459 between researchers, treatment providers, and the department.
460 (12) The corporation shall provide an annual report
461 concerning its activities and finances to ~~the Florida Center for~~
462 ~~Universal Research to Eradicate Disease and shall provide copies~~
463 ~~of the annual report to~~ the Governor, the President of the
464 Senate, and the Speaker of the House of Representatives.
465 Section 8. Sections 381.855 and 381.922, Florida Statutes,
466 are repealed.
467 Section 9. This act shall take effect July 1, 2007.

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	______

Council/Committee hearing bill: Healthcare Council
Representative(s) Bean offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Paragraph (h) of subsection (1) of section 20.435, Florida Statutes, is amended to read:

20.435 Department of Health; trust funds.--

(1) The following trust funds are hereby created, to be administered by the Department of Health:

(h) Biomedical Research Trust Fund.

1. Funds to be credited to the trust fund shall consist of funds deposited pursuant to s. 215.5601 and any other funds appropriated by the Legislature. Funds shall be used for the purposes of the James and Esther King Biomedical Research Program ~~and the William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program~~ as specified in ss. 215.5602 and~~,~~ 288.955~~, and 381.922~~. The trust fund is exempt from the service charges imposed by s. 215.20.

2. Notwithstanding the provisions of s. 216.301 and pursuant to s. 216.351, any balance in the trust fund at the end of any fiscal year shall remain in the trust fund at the end of

23 the year and shall be available for carrying out the purposes of
24 the trust fund. The department may invest these funds
25 independently through the Chief Financial Officer or may
26 negotiate a trust agreement with the State Board of
27 Administration for the investment management of any balance in
28 the trust fund.
29 3. Notwithstanding s. 216.301 and pursuant to s. 216.351,
30 any balance of any appropriation from the Biomedical Research
31 Trust Fund which is not disbursed but which is obligated
32 pursuant to contract or committed to be expended may be carried
33 forward for up to 3 years following the effective date of the
34 original appropriation.
35 4. The trust fund shall, unless terminated sooner, be
36 terminated on July 1, 2008.
37 Section 2. Paragraph (d) of subsection (1) of section
38 215.5601, Florida Statutes, is amended to read:
39 215.5601 Lawton Chiles Endowment Fund.--
40 (1) LEGISLATIVE INTENT.-- It is the intent of the
41 Legislature to:
42 (d) Provide funds to help support public-health and
43 biomedical research for the prevention, diagnosis, treatment,
44 and cure of diseases related to tobacco use by creating an
45 annual and perpetual source of funding for biomedical research
46 in the state through the James and Esther King Biomedical
47 Research Program in order to expand the foundation of biomedical
48 knowledge relating to the prevention, diagnosis, treatment, and
49 cure of diseases related to tobacco use, including cancer,
50 cardiovascular disease, stroke, and pulmonary disease; improve
51 the quality of the state's academic health centers by bringing
52 the advances of biomedical research into the training of
53 physicians and other health care providers; and increase the

state's per capita funding for biomedical research by undertaking new initiatives in biomedical research which will attract additional funding from outside the state while also stimulating economic activity in the state in areas related to biomedical research, such as the research and production of pharmaceuticals, biotechnology, and medical devices.

Section 3. Section 215.5602, Florida Statutes, is amended to read:

215.5602 James and Esther King Biomedical Research Program.—

(1) The Legislature finds that an estimated 128 million Americans suffer from acute, chronic, and degenerative diseases and that biomedical research is the key to finding cures for these diseases that negatively affect Floridians. The Legislature further finds that the biomedical technology sector meets the criteria of a high-impact sector, pursuant to s. 288.108, having a high importance to this state's economy with a significant potential for growth and contribution to our universities and quality of life.

(2) It is the intent of the Legislature that Florida strive to become the nation's leader in biomedical research and commit itself to being the state to find cures for the most deadly and widespread diseases. Moreover, it is the intent of the Legislature to expand the state economy by attracting biomedical researchers and research companies to this state.

(3) ~~(1)~~ There is established within the Department of Health the James and Esther King Biomedical Research Program funded by the proceeds of the Lawton Chiles Endowment Fund pursuant to s. 215.5601 and the Biomedical Research Trust Fund within the Department of Health pursuant to s. 20.435(1)(h). The purpose of the James and Esther King Biomedical Research Program

85 is to provide an annual and perpetual source of funding for
86 biomedical ~~in order to support~~ research initiatives that address
87 the health care problems of Floridians ~~in the areas of tobacco-~~
88 ~~related cancer, cardiovascular disease, stroke, and pulmonary~~
89 ~~disease~~. The long-term goals of the program are to:
90 (a) Improve the health of Floridians by researching better
91 prevention, diagnoses, treatments, and cures for the most deadly
92 and widespread diseases, including, but not limited to, tobacco-
93 related diseases, cancer, cardiovascular disease, stroke, ~~and~~
94 pulmonary disease, diabetes, autoimmune disorders, and
95 neurological disorders, including Alzheimer's disease, epilepsy,
96 and Parkinson's disease.
97 (b) Expand the foundation of biomedical knowledge relating
98 to the prevention, diagnosis, treatment, and cure of diseases
99 related to tobacco use, including cancer, cardiovascular
100 disease, stroke, and pulmonary disease.
101 (c) Expand the foundation of biomedical knowledge relating
102 to the prevention, diagnosis, treatment, and cure of the most
103 deadly and widespread diseases affecting Floridians.
104 (d)~~(c)~~ Improve the quality of the state's academic health
105 centers by bringing the advances of biomedical research into the
106 training of physicians and other health care providers.
107 (e)~~(d)~~ Increase the state's per capita funding for
108 research by undertaking new initiatives in public health and
109 biomedical research that will attract additional funding from
110 outside the state.
111 (f)~~(e)~~ Stimulate economic activity in the state in areas
112 related to biomedical research, such as the research and
113 production of pharmaceuticals, biotechnology, and medical
114 devices.

115 (g) Facilitate communication between biomedical
116 researchers and health care providers in order to ensure ongoing
117 dialogue between researchers, treatment providers, and the
118 department.
119 (h) Coordinate, improve, and expand, and monitor all
120 biomedical research programs within the state, facilitate
121 funding opportunities, and foster improved technology transfer
122 of research findings into clinical trials and widespread public
123 use.
124 (i) Hold periodic biomedical technology summits in Florida
125 to which biomedical researchers, biomedical technology
126 companies, business incubators, pharmaceutical manufacturers,
127 and others around the nation and world are invited to share
128 biomedical research findings in order to expedite the discovery
129 of cures. Summit attendees shall cover the costs of such
130 attendance or obtain sponsorship for such attendance.
131 (j) Encourage clinical trials in this state on research
132 that holds promise of curing a disease or condition.
133 (k) Encourage partnerships between researchers in this
134 state and institutions in other states and countries where
135 research with rare plants or animals could lead to cures.
136 (l) Encourage agricultural colleges and agricultural
137 businesses in this state to be active in the search for cures
138 and in providing information to the public about disease
139 prevention.
140 (m) Encourage partnerships among researchers working to
141 cure all types of diseases, including those that are prevalent
142 in developed countries and those that occur mainly in developing
143 countries.
144 (n) Encourage the discovery and production in Florida of
145 vaccines that prevent disease.

146 (4) ~~(2)~~ Beginning in fiscal year 2007-2008, the sum of $25
147 million is appropriated annually from recurring funds in the
148 General Revenue Fund to the Biomedical Research Trust Fund
149 within the Department of Health for the James and Esther King
150 Biomedical Research Program for the purposes as provided under
151 this section. Funds appropriated for the James and Esther King
152 Biomedical Research Program shall be the exclusive source of
153 state funds used ~~exclusively~~ for the award of biomedical
154 research grants and fellowships in Florida, as established in
155 this section; for research relating to the prevention,
156 diagnosis, treatment, and cure of diseases affecting Floridians
157 ~~related to tobacco use, including cancer, cardiovascular~~
158 ~~disease, stroke, and pulmonary disease~~; and for expenses
159 incurred in the administration of this section. Priority shall
160 be granted to research designed to prevent or cure disease.
161 (5) ~~(3)~~ There is created within the James and Esther King
162 Biomedical Research Program in the Department of Health the
163 Biomedical Research Advisory Council.
164 (a) The council shall consist of 34 ~~11~~ members, including:
165 the chief executive officer of Enterprise Florida, Inc., or a
166 designee; the chief executive officer of the Florida Division of
167 the American Cancer Society, or a designee; the chief executive
168 officer of the Florida/Puerto Rico Affiliate of the American
169 Heart Association, or a designee; ~~and~~ the chief executive
170 officer of the American Lung Association of Florida, or a
171 designee; the chief executive officer of the H. Lee Moffitt
172 Cancer Center, or a designee; the director of the University of
173 Florida Shands Cancer Center, or a designee; the chief executive
174 officer of the University of Miami Sylvester Comprehensive
175 Cancer Center, or a designee; the chief executive officer of the
176 Mayo Clinic, Jacksonville, or a designee; the president of the

177 Florida Society of Clinical Oncology, or a designee; the
178 president of the American College of Surgeons, Florida Chapter,
179 or a designee; and the chair of the Florida Dialogue on Cancer,
180 or a designee. The remaining 23 ~~8~~ members of the council shall
181 be appointed as follows:
182 1. The Governor shall appoint eleven ~~four~~ members, two
183 members with expertise in the field of biomedical research, one
184 member from a research university in the state, one
185 representative of the Epilepsy Foundation, one representative of
186 the Florida Medical Foundation, one representative of the
187 American Liver Foundation, one representative of the Florida
188 Academy of Family Physicians, one public health academian, one
189 representative of the Florida Public Health Association, one
190 representative of the Florida Council for Behavioral Health
191 Care, Inc., one representative of the Florida Association of
192 County Health Officers, and one member representing the general
193 population of the state.
194 2. The President of the Senate shall appoint six ~~two~~
195 members, one former member of the Senate, one member with
196 expertise in the field of behavioral or social research, one
197 representative of BioFlorida, one representative of
198 Pharmaceutical Research and Manufacturers of America, one
199 representative of the South Coastal Region of the American
200 Diabetes Association, and one representative from a cancer
201 program approved by the American College of Surgeons.
202 3. The Speaker of the House of Representatives shall
203 appoint six ~~two~~ members, one former member of the House of
204 Representatives, one representative of the National Parkinson
205 Foundation, one representative of the Alzheimer's Association,
206 one representative of the Florida Research Consortium, one
207 member from a professional medical organization, and one

208 representative from a cancer program approved by the American
209 College of Surgeons.
210 In making these appointments, the Governor, the President of the
211 Senate, and the Speaker of the House of Representatives shall
212 select primarily, but not exclusively, Floridians with
213 biomedical and lay expertise in the general areas of cancer,
214 cardiovascular disease, stroke, ~~and~~ pulmonary disease, diabetes,
215 autoimmune disorders, and neurological disorders, including
216 Alzheimer's disease, epilepsy, and Parkinson's disease. The
217 appointments shall be for a 3-year term and shall reflect the
218 diversity of the state's population. An appointed member may not
219 serve more than two consecutive terms.
220 (b) The council shall serve as the exclusive source of
221 awarding or recommending the award of grants or fellowships for
222 biomedical research in this state using state-appropriated
223 funds. This paragraph shall not preclude another grant or
224 fellowship program in the state from awarding grants from funds
225 received from private or federal sources where permitted by
226 state law.
227 (c) 1. The council shall create the following committees:
228 a. Committee on Tobacco-related Diseases.
229 b. Bankhead-Coley Committee on Cancer.
230 c. Committee on Strokes.
231 d. Committee on Cardiovascular Disease.
232 e. Committee on Pulmonary Disease.
233 f. Committee on Diabetes.
234 g. Committee on Autoimmune Disorders.
235 h. Johnnie B. Byrd, Sr., Committee on Alzheimer's Disease.
236 i. Committee on Parkinson's Disease.
237 j. Committee on Neurological Disorders.
238 The council may create other committees as it deems necessary.

239 2. The committees shall be comprised of council members
240 and shall focus on issues and proposed research related to that
241 committee. The committees shall report findings and make
242 recommendations to the council regarding the award of grants and
243 the areas of focus or need for future grants and fellowships.
244 (d) ~~(b)~~ The council shall adopt internal organizational
245 procedures as necessary for its efficient organization,
246 including procedures for assigning council members to committees
247 and coordination between the council and committees.
248 (e) ~~(c)~~ The department shall provide such staff,
249 information, and other assistance as is reasonably necessary to
250 assist the council, including its committees, in carrying out
251 its responsibilities.
252 (f) ~~(d)~~ Members of the council shall serve without
253 compensation, but may receive reimbursement as provided in s.
254 112.061 for travel and other necessary expenses incurred in the
255 performance of their official duties.
256 (6) ~~(4)~~ The council, after consulting with its committees,
257 shall advise the Secretary of Health as to the direction and
258 scope of the biomedical research program. The responsibilities
259 of the council may include, but are not limited to:
260 (a) Providing advice on program priorities and emphases.
261 (b) Providing advice on the overall program budget.
262 (c) Participating in periodic program evaluation.
263 (d) Assisting in the development of guidelines to ensure
264 fairness, neutrality, and adherence to the principles of merit
265 and quality in the conduct of the program.
266 (e) Assisting in the development of appropriate linkages
267 to nonacademic entities, such as voluntary organizations, health
268 care delivery institutions, industry, government agencies, and
269 public officials.

270 (f) Developing criteria and standards for the award of
271 research grants.
272 (g) Developing administrative procedures relating to
273 solicitation, review, and award of research grants and
274 fellowships, to ensure an impartial, high-quality peer review
275 system.
276 (h) Developing and supervising research peer review
277 panels.
278 (i) Reviewing reports of peer review panels and making
279 recommendations for research grants and fellowships.
280 (j) Developing and providing oversight regarding
281 mechanisms for the dissemination of research results.
282 (k) Monitoring the supply and demand needs of researchers
283 relating to stem cell research and other types of human tissue
284 research consistent with this section. If the council determines
285 that there is a need for increased donation of stem cells or
286 human tissue, it shall notify hospitals licensed pursuant to
287 chapter 395 which have entered into partnership agreements with
288 research institutes conducting stem cell research located in the
289 same geographic region as the researchers demanding the adult
290 stem cells, placentas, or cord blood.
291 (l) The council shall maintain a website with links to
292 peer-reviewed biomedical research and future opportunities to
293 apply for an award of a biomedical research grants from the
294 council. The website shall also contain a list of all known
295 biomedical research being conducted in Florida and shall
296 facilitate communication among researchers and other interested
297 parties.
298 (m) Disseminating breakthrough findings in, and
299 information about, innovative biomedical research and clinical
300 trials that will assist in making Floridians and their treatment

301 providers aware of specified diseases and conditions and
302 available methods of preventing, diagnosing, treating, and
303 curing those diseases and conditions.
304 (7) ~~(5)~~(a) Applications for biomedical research funding
305 under the program may be submitted from any university or
306 established research institute in the state. All qualified
307 investigators in the state, regardless of institution
308 affiliation, shall have equal access and opportunity to compete
309 for the research funding.
310 (b) The council, after consulting with its committees,
311 shall recommend the award of grants and fellowships for
312 biomedical research to the Secretary of Health, who shall accept
313 the recommendations of the council and make the award ~~Grants and~~
314 ~~fellowships shall be awarded by the Secretary of Health, after~~
315 ~~consultation with the council,~~ on the basis of scientific merit,
316 as determined by an open competitive peer review process that
317 ensures objectivity, consistency, and high quality. The
318 following types of applications shall be considered for funding:
319 1. Investigator-initiated research grants.
320 2. Institutional research grants.
321 3. Predoctoral and postdoctoral research fellowships.
322 (8) ~~(6)~~ To ensure that all proposals for research funding
323 are appropriate and are evaluated fairly on the basis of
324 scientific merit, the Secretary of Health, in consultation with
325 the council, shall appoint a peer review panel of independent,
326 scientifically qualified individuals to review the scientific
327 content of each proposal and establish its scientific priority
328 score. The priority scores shall be forwarded to the council and
329 its committees and must be considered in determining which
330 proposals shall be recommended for funding.

331 (9)~~(7)~~ The council, the committees, and the peer review
332 panel shall establish and follow rigorous guidelines for ethical
333 conduct and adhere to a strict policy with regard to conflict of
334 interest. A member of the council or panel may not participate
335 in any discussion or decision with respect to a research
336 proposal by any firm, entity, or agency with which the member is
337 associated as a member of the governing body or as an employee,
338 or with which the member has entered into a contractual
339 arrangement. Meetings of the council and the peer review panels
340 shall be subject to the provisions of chapter 119, s. 286.011,
341 and s. 24, Art. I of the State Constitution.
342 (10) The council shall take into consideration the
343 following factors when prioritizing grant or fellowship awards:
344 (a) Research applications that appear to have the most
345 profound impact on the most deadly and widespread diseases
346 affecting Floridians at the time the grant or fellowship is
347 awarded;
348 (b) Research applications that meet the priorities of the
349 program while proposing the best and most efficient use of state
350 funds.
351 (11)~~(8)~~ The department may contract on a competitive-bid
352 basis with an appropriate entity to administer the program.
353 Administrative expenses may not exceed 15 percent of the total
354 funds available to the program in any given year.
355 (12)~~(9)~~ The department, after consultation with the
356 council, may adopt rules as necessary to implement this section.
357 (13)~~(10)~~ The council shall submit an annual progress
358 report on the state of biomedical research in this state ~~to the~~
359 ~~Florida Center for Universal Research to Eradicate Disease and~~
360 to the Governor, the Secretary of Health, the President of the

361 Senate, and the Speaker of the House of Representatives by
362 February 1. The report must include:
363 (a) A list of research projects supported by grants or
364 fellowships awarded under the program.
365 (b) A list of recipients of program grants or fellowships.
366 (c) A list of publications in peer reviewed journals
367 involving research supported by grants or fellowships awarded
368 under the program.
369 (d) The total amount of biomedical research funding
370 currently flowing into the state.
371 (e) New grants for biomedical research which were funded
372 based on research supported by grants or fellowships awarded
373 under the program.
374 (f) Progress in the prevention, diagnosis, treatment, and
375 cure of the most deadly and widespread diseases, including
376 cancer, cardiovascular disease, stroke, pulmonary disease,
377 diabetes, autoimmune disorders, and neurological disorders,
378 including Alzheimer's disease, epilepsy, and Parkinson's disease
379 ~~diseases related to tobacco use, including cancer,~~
380 ~~cardiovascular disease, stroke, and pulmonary disease~~.
381 ~~(11) The council shall award grants for cancer research~~
382 ~~through the William G. "Bill" Bankhead, Jr., and David Coley~~
383 ~~Cancer Research Program created in s. 381.922.~~
384 (14) ~~(12)~~ Funds for the Biomedical Research Advisory
385 Council shall be ~~Beginning in fiscal year 2006-2007, the sum of~~
386 ~~$6 million is~~ appropriated annually from recurring funds in the
387 General Revenue Fund to the Biomedical Research Trust Fund
388 within the Department of Health for purposes of the James and
389 Esther King Biomedical Research Program pursuant to this
390 section. From these funds up to $500,000 ~~250,000~~ shall be
391 available for the operating costs of the James and Esther King

392 Biomedical Research Program. Any biomedical research grants
393 awarded pursuant to this section for cancer research shall be
394 named "Bankhead-Coley Cancer Research Grants." None of the funds
395 appropriated for biomedical research pursuant to this section
396 shall be used for research with human embryonic stem cells that
397 are derived by a process resulting from the death or destruction
398 of the donor embryo or human cloning. If a grant or fellowship
399 recipient awarded a grant or fellowship for biomedical research
400 pursuant to this section uses state funds for embryonic stem
401 cell research or human cloning, the grant or fellowship shall be
402 immediately revoked and the council shall have the right to seek
403 recovery of the funds used for such unauthorized purposes
404 Florida Center for Universal Research to Eradicate Disease.
405 (15)(13) By June 1, 2009, the Division of Statutory
406 Revision of the Office of Legislative Services shall certify to
407 the President of the Senate and the Speaker of the House of
408 Representatives the language and statutory citation of this
409 section, which is scheduled to expire January 1, 2011.
410 (16)(14) The Legislature shall review the performance, the
411 outcomes, and the financial management of the James and Esther
412 King Biomedical Research Program during the 2010 Regular Session
413 of the Legislature and shall determine the most appropriate
414 funding source and means of funding the program based on its
415 review.
416 (17)(15) This section expires January 1, 2011, unless
417 reviewed and reenacted by the Legislature before that date.
418 Section 4. Subsection(4) of section 381.853, Florida
419 Statutes, is amended to read:
420 381.853 Florida Center for Brain Tumor Research.--

421 (4) The Florida Center for Brain Tumor Research is
422 established within the Evelyn F. and William L. McKnight Brain
423 Institute of the University of Florida.
424 (a) The purpose of the center is to foster collaboration
425 with brain cancer research organizations and other institutions,
426 provide a central repository for brain tumor biopsies from
427 individuals throughout the state~~, improve and monitor brain~~
428 ~~tumor biomedical research programs within the state, facilitate~~
429 ~~funding opportunities~~, and foster improved technology transfer
430 of brain tumor research findings into clinical trials and
431 widespread public use.
432 (b) The goal of the center is to find cures for brain
433 tumors.
434 ~~(c) Funds specifically appropriated by the Legislature for~~
435 ~~peer-reviewed brain tumor research shall be awarded using a~~
436 ~~competitive grant process developed by the center.~~
437 (c)~~(d)~~ The center shall hold an annual brain tumor
438 biomedical technology summit in the state to which scientists
439 conducting basic peer-reviewed scientific research from the
440 state's public and private universities, teaching hospitals, and
441 for-profit and nonprofit institutions are invited to share
442 biomedical research findings in order to expedite the discovery
443 of cures. Summit attendees shall cover the costs of such
444 attendance or obtain sponsorship for such attendance.
445 (d)~~(e)~~ The center shall encourage clinical trials in the
446 state on research that holds the promise of curing brain tumors.
447 The center shall facilitate the formation of partnerships
448 between researchers, physicians, clinicians, and hospitals for
449 the purpose of sharing new techniques and new research findings
450 and coordinating the voluntary donation of brain tumor biopsies.

451 (e) ~~(f)~~ The center shall submit an annual report to the
452 Governor, the President of the Senate, the Speaker of the House
453 of Representatives, and the Secretary of Health no later than
454 January 15 that contains recommendations for legislative changes
455 necessary to foster a positive climate for the pursuit of brain
456 tumor research and the development of treatment modalities in
457 the state.
458 (f) ~~(g)~~ The center shall be funded through private, state,
459 and federal sources.
460 Section 5. Subsection (1) of section 381.912, Florida
461 Statutes, is amended to read:
462 381.912 Cervical Cancer Elimination Task Force.--
463 (1) Effective July 1, 2004, the Cervical Cancer
464 Elimination Task Force is established for the purpose of
465 recommending strategies and actions to reduce the costs and
466 burdens of cervical cancer in Florida. The task force shall
467 present interim reports to the William G. "Bill" Bankhead, Jr.
468 and David Coley Cancer Research Council, ~~Florida Public Health~~
469 ~~Foundation, Inc., the Florida Cancer Council,~~ ~~the Center for~~
470 ~~Universal Research to Eradicate Disease,~~ the Governor, the
471 President of the Senate, and the Speaker of the House of
472 Representatives on January 1, 2006, and July 1, 2007, with a
473 final report due on June 30, 2008. After submitting its final
474 report on or before June 30, 2008, the task force is dissolved.
475 Section 6. Section 381.922, Florida Statutes, is amended
476 to read:
477 381.922 William G. "Bill" Bankhead, Jr. and David Coley
478 Cancer Research Council.--
479 (1) Effective July 1, 2007, the William G. "Bill"
480 Bankhead, Jr. and David Coley Cancer Research Council, which may
481 be otherwise cited as the "Bankhead-Coley Cancer Council," is

482 created within the Department of Health for the purpose of
483 making the state a center of excellence for cancer research.
484 (2)(a) The council shall be representative of the state's
485 cancer centers, hospitals, and patient groups and shall be
486 organized and shall operate in accordance with this act.
487 (b) The Bankhead-Coley Cancer Council may create not-for-
488 profit corporations to receive, hold, invest, and administer
489 property and any moneys acquired from private, local, state, and
490 federal sources, as well as technical and professional income
491 generated or derived from the mission-related activities of the
492 council.
493 (c) The members of the council shall consist of:
494 1. Chair of the Florida Dialogue on Cancer, who shall
495 serve as the chair of the council;
496 2. Secretary of the Department of Health or his or her
497 designee;
498 3. Chief Executive Officer of the H. Lee Moffitt Cancer
499 Center or his or her designee;
500 4. Director of the University of Florida Shands Cancer
501 Center or his or her designee;
502 5. Chief Executive Officer of the University of Miami
503 Sylvester Comprehensive Cancer Center or his or her designee;
504 6. Chief Executive Officer of the Mayo Clinic,
505 Jacksonville, or his or her designee;
506 7. Chief Executive Officer of the American Cancer Society,
507 Florida Division, Inc., or his or her designee;
508 8. President of the American Cancer Society, Florida
509 Division, Inc., Board of Directors or his or her designee;
510 9. President of the Florida Society of Clinical Oncology
511 or his or her designee;

512 10. President of the American College of Surgeons, Florida
513 Chapter, or his or her designee;
514 11. Chief Executive Officer of Enterprise Florida, Inc.,
515 or his or her designee;
516 12. Five representatives from cancer programs approved by
517 the American College of Surgeons. Three shall be appointed by
518 the Governor, one shall be appointed by the Speaker of the House
519 of Representatives, and one shall be appointed by the President
520 of the Senate;
521 13. One member of the House of Representatives, to be
522 appointed by the Speaker of the House of Representatives; and
523 14. One member of the Senate, to be appointed by the
524 President of the Senate.
525 (d) Appointments made by the Speaker of the House of
526 Representatives and the President of the Senate pursuant to
527 paragraph (c) shall be for 2-year terms, concurrent with the
528 bienniums in which they serve as presiding officers.
529 (e) Appointments made by the Governor pursuant to
530 paragraph (c) shall be for 2-year terms, although the Governor
531 may reappoint members.
532 (f) Members of the council and officers of any not-for-
533 profit corporations shall serve without compensation, and each
534 organization represented on the council shall cover the expenses
535 of its representatives.
536 (3) The council shall issue an annual report to the James
537 and Esther King Biomedical Research Program, the Governor, the
538 Speaker of the House of Representatives, and the President of
539 the Senate by December 15 of each year, with policy
540 recommendations regarding cancer research capacity in Florida
541 and related issues.

542 ~~381.922 William G. "Bill" Bankhead, Jr., and David Coley~~
543 ~~Cancer Research Program.--~~
544 ~~(1) The William G. "Bill" Bankhead, Jr., and David Coley~~
545 ~~Cancer Research Program, which may be otherwise cited as the~~
546 ~~"Bankhead-Coley Program," is created within the Department of~~
547 ~~Health. The purpose of the program shall be to advance progress~~
548 ~~towards cures for cancer through grants awarded through a peer-~~
549 ~~reviewed, competitive process.~~
550 ~~(2) The program shall provide grants for cancer research~~
551 ~~to further the search for cures for cancer.~~
552 ~~(a) Emphasis shall be given to the goals enumerated in s.~~
553 ~~381.921, as those goals support the advancement of such cures.~~
554 ~~(b) Preference may be given to grant proposals that foster~~
555 ~~collaborations among institutions, researchers, and community~~
556 ~~practitioners, as such proposals support the advancement of~~
557 ~~cures through basic or applied research, including clinical~~
558 ~~trials involving cancer patients and related networks. (~~
559 ~~3)(a) Applications for funding for cancer research may be~~
560 ~~submitted by any university or established research institute in~~
561 ~~the state. All qualified investigators in the state, regardless~~
562 ~~of institutional affiliation, shall have equal access and~~
563 ~~opportunity to compete for the research funding. Collaborative~~
564 ~~proposals, including those that advance the program's goals~~
565 ~~enumerated in subsection (2), may be given preference. Grants~~
566 ~~shall be awarded by the Secretary of Health, after consultation~~
567 ~~with the Biomedical Research Advisory Council, on the basis of~~
568 ~~scientific merit, as determined by an open, competitive peer~~
569 ~~review process that ensures objectivity, consistency, and high~~
570 ~~quality. The following types of applications shall be considered~~
571 ~~for funding:~~
572 ~~1. Investigator-initiated research grants.~~

573 ~~2. Institutional research grants.~~
574 ~~3. Collaborative research grants, including those that~~
575 ~~advance the finding of cures through basic or applied research.~~
576 ~~(b) In order to ensure that all proposals for research~~
577 ~~funding are appropriate and are evaluated fairly on the basis of~~
578 ~~scientific merit, the Secretary of Health, in consultation with~~
579 ~~the council, shall appoint a peer review panel of independent,~~
580 ~~scientifically qualified individuals to review the scientific~~
581 ~~content of each proposal and establish its priority score. The~~
582 ~~priority scores shall be forwarded to the council and must be~~
583 ~~considered in determining which proposals shall be recommended~~
584 ~~for funding.~~
585 ~~(c) The council and the peer review panel shall establish~~
586 ~~and follow rigorous guidelines for ethical conduct and adhere to~~
587 ~~a strict policy with regard to conflicts of interest. A member~~
588 ~~of the council or panel may not participate in any discussion or~~
589 ~~decision with respect to a research proposal by any firm,~~
590 ~~entity, or agency with which the member is associated as a~~
591 ~~member of the governing body or as an employee or with which the~~
592 ~~member has entered into a contractual arrangement. Meetings of~~
593 ~~the council and the peer review panels are subject to chapter~~
594 ~~119, s. 286.011, and s. 24, Art. I of the State Constitution.~~
595 ~~(4) By December 15 of each year, the Department of Health~~
596 ~~shall submit to the Governor, the President of the Senate, and~~
597 ~~the Speaker of the House of Representatives a report indicating~~
598 ~~progress towards the program's mission and making~~
599 ~~recommendations that further its purpose.~~
600 ~~(5) Beginning in fiscal year 2006-2007, the sum of $9~~
601 ~~million is appropriated annually from recurring funds in the~~
602 ~~General Revenue Fund to the Biomedical Research Trust Fund~~
603 ~~within the Department of Health for purposes of the William G.~~

604 ~~"Bill" Bankhead, Jr., and David Coley Cancer Research Program~~
605 ~~and shall be distributed pursuant to this section to provide~~
606 ~~grants to researchers seeking cures for cancer, with emphasis~~
607 ~~given to the goals enumerated in s. 381.921. From the total~~
608 ~~funds appropriated, an amount of up to 10 percent may be used~~
609 ~~for administrative expenses.~~
610 ~~(6) By June 1, 2009, the Division of Statutory Revision of~~
611 ~~the Office of Legislative Services shall certify to the~~
612 ~~President of the Senate and the Speaker of the House of~~
613 ~~Representatives the language and statutory citation of this~~
614 ~~section, which is scheduled to expire January 1, 2011.~~
615 ~~(7) The Legislature shall review the performance, the~~
616 ~~outcomes, and the financial management of the William G. "Bill"~~
617 ~~Bankhead, Jr., and David Coley Cancer Research Program during~~
618 ~~the 2010 Regular Session of the Legislature and shall determine~~
619 ~~the most appropriate funding source and means of funding the~~
620 ~~program based on its review.~~
621 ~~(8) This section expires January 1, 2011, unless reviewed~~
622 ~~and reenacted by the Legislature before that date.~~
623 Section 7. Section 381.923, Florida Statutes, is created
624 to read:
625 381.923 Bankhead-Coley Cancer Council mission and
626 duties.--The council shall ensure that the goals of the council
627 are advanced and shall endeavor to dramatically improve cancer
628 research and treatment in this state through:
629 (1) Efforts to significantly expand cancer research
630 capacity in the state by:
631 (a) Identifying ways to attract new research talent and
632 attendant national grant-producing researchers to cancer
633 research facilities in this state;

634 (b) Encouraging the employment of bioinformatics in order
635 to create a cancer informatics infrastructure that enhances
636 information and resource exchange and integration through
637 researchers working in diverse disciplines, to facilitate the
638 full spectrum of cancer investigations;
639 (c) Facilitating the technical coordination, business
640 development, and support of intellectual property as it relates
641 to the advancement of cancer research; and
642 (d) Aiding in other multidisciplinary research-support
643 activities as they inure to the advancement of cancer research.
644 (2) Efforts to improve both research and treatment through
645 greater participation in clinical trials networks by:
646 (a) Identifying ways to increase adult enrollment in
647 cancer clinical trials;
648 (b) Supporting public and private professional education
649 programs designed to increase the awareness and knowledge about
650 cancer clinical trials;
651 (c) Providing tools to cancer patients and community-based
652 oncologists to aid in the identification of cancer clinical
653 trials available in the state; and
654 (d) Creating opportunities for the state's academic cancer
655 centers to collaborate with community-based oncologists in
656 cancer clinical trials networks.
657 (3) Efforts to reduce the impact of cancer on disparate
658 groups by:
659 (a) Identifying those cancers that disproportionately
660 impact certain demographic groups; and
661 (b) Building collaborations designed to reduce health
662 disparities as they relate to cancer.

663 Section 8. Subsection (8) of Section 381.98, Florida
664 Statutes, is deleted, and Subsections (1), (2), and (9) through
665 (12) are amended to read as follows:
666 381.98. The Florida Public Health Foundation, Inc.;
667 establishment; purpose; mission; duties; board of directors.--
668 (1) The Florida Public Health Foundation, Inc., referred to
669 in this section as "the corporation," is established for the
670 purpose of ~~disseminating breakthrough findings in biomedical~~
671 ~~research and~~ promoting health awareness in this state and
672 providing services to the Department of Health.
673 (2) The corporation's mission includes ~~disseminating~~
674 ~~information about innovative biomedical research and clinical~~
675 ~~trials in this state as well as~~ making Floridians and their
676 treatment providers aware of specified diseases and conditions
677 and available methods of preventing, diagnosing, treating, and
678 curing those diseases and conditions.
679 (3) The purpose and objective of the corporation shall be
680 to operate exclusively for charitable, scientific, and
681 educational purposes; to protect and improve the health and
682 well-being of Florida's people and environment through
683 partnerships committed to program innovation, education, applied
684 research, and policy development; and to engage in charitable
685 programs dedicated to improving the health of Floridians.
686 (4) The corporation shall be established as a not-for-
687 profit entity qualifying under s. 501(c)(3) of the Internal
688 Revenue Code. The corporation may receive, hold, invest, and
689 administer property and any moneys acquired from private, local,
690 state, and federal sources, as well as technical and
691 professional income generated or derived from the mission-
692 related activities of the corporation. The corporation shall
693 have all of the powers conferred upon corporations organized

694 under chapter 617.

695 (5) The corporation's duties include procuring funds
696 necessary for accomplishing the purpose and mission of the
697 corporation. The corporation shall strive to complement,
698 supplement, and enhance the missions of the various
699 organizations, entities, and departments represented on its
700 board by serving as the lead corporation in the state for
701 promoting public health awareness.

702 (6) The affairs of the corporation shall be managed by an
703 executive director appointed by a board of directors consisting
704 of:

705 (a) The Secretary of Health or his or her designee.

706 (b) A former member of the Senate appointed by the
707 President of the Senate.

708 (c) A former member of the House of Representatives
709 appointed by the Speaker of the House of Representatives.

710 (d) A representative of the American Heart Association.

711 (e) A representative of the American Cancer Society,
712 Florida Division, Inc.

713 (f) A representative of the American Lung Association of
714 Florida.

715 (g) A representative of the American Diabetes Association,
716 South Coastal Region.

717 (h) A representative of the Alzheimer's Association.

718 (i) A representative of the Epilepsy Foundation.

719 (j) A representative of the National Parkinson Foundation.

720 (k) A representative of the March of Dimes, Florida
721 Chapter.

722 (*l*) A representative of the Arthritis Foundation, Florida
723 Chapter.

724 (m) A representative of the American Liver Foundation.

725 (n) A representative of the Florida Council for Behavioral
726 Healthcare, Inc.
727 (o) A representative of the Florida Alcohol and Drug Abuse
728 Association.
729 (p) A representative of Pharmaceutical Research and
730 Manufacturers of America.
731 (q) A representative of the Florida Public Health
732 Association.
733 (r) A representative of the Florida Association of County
734 Health Officers.
735 (s) A public health academician selected by the State
736 Health Officer.
737 (t) A representative of the Florida Academy of Family
738 Physicians.
739 (u) Three consumers who have demonstrated an interest in
740 protecting the public health appointed by the Florida Public
741 Health Association.
742 (v) A representative of the Florida Association of Health
743 plans.
744 (7) Members of the board of directors shall serve for 2-
745 year terms and shall serve without compensation. Each
746 organization represented on the board of directors shall cover
747 the expenses of its representative.
748 ~~(8) The corporation, in consultation with the Department of~~
749 ~~Health and the Florida Center for Universal Research to~~
750 ~~Eradicate Disease, shall facilitate communication between~~
751 ~~biomedical researchers and health care providers each month~~
752 ~~according to the health awareness schedule established by the~~
753 ~~Florida Public Health Foundation, Inc., in order to ensure~~
754 ~~ongoing dialogue between researchers, treatment providers, and~~
755 ~~the department.~~

756 (8)~~(9)~~ The corporation and the Department of Health shall
757 enter into partnerships with providers of continuing education
758 for health care practitioners, including, but not limited to,
759 hospitals and state and local medical organizations, to ensure
760 that practitioners are aware of the most recent and complete
761 diagnostic and treatment tools.
762 (9)~~(10)~~ The corporation may provide personnel to the
763 Department of Health for the purpose of performing duties and
764 responsibilities outlined in private and public grants received
765 by the Department of Health. These personnel are not state
766 employees and are not entitled to retirement credit and other
767 benefits provided to state employees under chapters 110 and 112.
768 These personnel shall perform services pursuant to an agreement
769 between the corporation and the Department of Health.
770 (10)~~(11)~~ The corporation may purchase goods, services, and
771 property for use by the Department of Health. These purchases
772 are not subject to the provisions of chapters 253, 255, and 287,
773 nor to the control or direction of the Department of
774 Environmental Protection or the Department of Management
775 Services.
776 (11)~~(12)~~ The corporation shall provide an annual report
777 concerning its activities and finances to ~~the Florida Center for~~
778 ~~Universal Research to Eradicate Disease and shall provide copies~~
779 ~~of the annual report to~~ the Governor, the President of the
780 Senate, and the Speaker of the House of Representatives.
781 Section 9. Subsection (4) of Section 430.501, Florida
782 Statutes, is amended to read:
783 430.501 Alzheimer's Disease Advisory Committee; research
784 grants.--
785 (4) If funds are made available through gifts, grants, or
786 other sources, the Department of Elderly Affairs shall deposit

787 such funds into its Grants and Donations Trust Fund and shall
788 award research grants for research other than biomedical
789 research to qualified profit or nonprofit associations and
790 institutions or governmental agencies in order to plan,
791 establish, or conduct programs in Alzheimer's disease control or
792 prevention, education and training, and research. The
793 department may adopt rules as necessary to carry out these
794 duties.
795 Section 10. Subsection (2) of Section 430.502, Florida
796 Statutes, is amended to read:
797 430.502 Alzheimer's disease; memory disorder clinics and
798 day care and respite care programs.--
799 (2) It is the intent of the Legislature that research
800 conducted by a memory disorder clinic and supported by state
801 funds pursuant to subsection (1) be applied research, be
802 service-related, and be selected in conjunction with the
803 department. Such research may address, but is not limited to,
804 diagnostic technique, therapeutic interventions, and supportive
805 services for persons suffering from Alzheimer's disease and
806 related memory disorders and their caregivers. A memory disorder
807 clinic shall conduct such research in accordance with a research
808 plan developed by the clinic which establishes research
809 objectives that are in accordance with this legislative intent.
810 Should a memory disorder clinic supported by state funds
811 pursuant to subsection (1) perform or seek to perform any
812 biomedical research, funding for any and all such biomedical
813 research must be awarded by, the James and Esther King
814 Biomedical Research Program as provided for in s. 215.5602,
815 Florida Statutes. A memory disorder clinic shall also complete
816 and submit to the department a report of the findings,
817 conclusions, and recommendations of completed research. This

818 subsection does not apply to those memory disorder clinics at
819 the three medical schools in the state or at the major private
820 nonprofit research-oriented teaching hospital or other
821 affiliated teaching hospital.

822 Section 11. Subsection (8) of Section 1004.445, Florida
823 Statutes, is deleted, and Subsections (9) through (15) of
824 Section 1004.445, Florida Statutes are amended to read:

825 1004.445 Johnnie B. Byrd, Sr., Alzheimer's Center and
826 Research Institute.--

827 ~~(8)(a) Applications for Alzheimer's disease research~~
828 ~~funding may be submitted from any university or established~~
829 ~~research institute in the state. All qualified investigators in~~
830 ~~the state, regardless of institutional affiliation, shall have~~
831 ~~equal access and opportunity to compete for the research~~
832 ~~funding. Grants shall be awarded by the board of directors of~~
833 ~~the not-for-profit corporation on the basis of scientific merit,~~
834 ~~as determined by an open, competitive peer review process that~~
835 ~~ensures objectivity, consistency, and high quality. The~~
836 ~~following types of applications shall be considered for funding:~~

837 ~~1. Investigator-initiated research grants.~~

838 ~~2. Institutional research grants.~~

839 ~~3. Collaborative research grants, including those that~~
840 ~~advance the finding of cures through basic or applied research.~~

841 ~~(b) Preference may be given to grant proposals that foster~~
842 ~~collaboration among institutions, researchers, and community~~
843 ~~practitioners because these proposals support the advancement of~~
844 ~~cures through basic or applied research, including clinical~~
845 ~~trials involving Alzheimer's patients and related networks.~~

846 ~~(c) To ensure that all proposals for research funding are~~
847 ~~appropriate and are evaluated fairly on the basis of scientific~~
848 ~~merit, the board of directors of the not-for-profit corporation,~~

849 ~~in consultation with the council of scientific advisors, shall~~
850 ~~appoint a peer review panel of independent, scientifically~~
851 ~~qualified individuals to review the scientific content of each~~
852 ~~proposal and establish its scientific priority score. The~~
853 ~~priority scores shall be forwarded to the council and must be~~
854 ~~considered by the board of directors of the not-for-profit~~
855 ~~corporation in determining which proposals shall be recommended~~
856 ~~for funding.~~
857 ~~(d) The council of scientific advisors and the peer review~~
858 ~~panel shall establish and follow rigorous guidelines for ethical~~
859 ~~conduct and adhere to a strict policy with regard to conflict of~~
860 ~~interest. All employees, members of the board of directors, and~~
861 ~~affiliates of the not-for-profit corporation shall follow the~~
862 ~~same rigorous guidelines for ethical conduct and shall adhere to~~
863 ~~the same strict policy with regard to conflict of interest. A~~
864 ~~member of the council or panel may not participate in any~~
865 ~~discussion or decision with respect to a research proposal by~~
866 ~~any firm, entity, or agency with which the member is associated~~
867 ~~as a member of the governing body or as an employee or with~~
868 ~~which the member has entered into a contractual arrangement.~~
869 ~~Meetings of the council and the peer review panels are subject~~
870 ~~to chapter 119, s. 286.011, and s. 24, Art. I of the State~~
871 ~~Constitution.~~
872 (8)~~(9)~~ In carrying out the provisions of this section, the
873 not-for-profit corporation and its subsidiaries are not agencies
874 within the meaning of s. 20.03(11).
875 (9)~~(10)~~ The following information is confidential and
876 exempt from s. 119.07(1) and s. 24, Art. I of the State
877 Constitution:
878 (a) Personal identifying information relating to clients
879 of programs created or funded through the Johnnie B. Byrd, Sr.,

880 Alzheimer's Center and Research Institute that is held by the
881 institute, the University of South Florida, or the State Board
882 of Education;
883 (b) Medical or health records relating to patients held by
884 the institute;
885 (c) Materials that relate to methods of manufacture or
886 production, potential trade secrets, potentially patentable
887 material, actual trade secrets as defined in s. 688.002, or
888 proprietary information received, generated, ascertained, or
889 discovered during the course of research conducted by or through
890 the institute and business transactions resulting from such
891 research;
892 (d) The personal identifying information of a donor or
893 prospective donor to the institute who wishes to remain
894 anonymous; and
895 (e) Any information received by the institute from a
896 person from another state or nation or the Federal Government
897 that is otherwise confidential or exempt pursuant to the laws of
898 that state or nation or pursuant to federal law.
899 Any governmental entity that demonstrates a need to access such
900 confidential and exempt information in order to perform its
901 duties and responsibilities shall have access to such
902 information.
903 (10)~~(11)~~ Any appropriation to the institute provided in a
904 general appropriations act shall be paid directly to the board
905 of directors of the not-for-profit corporation by warrant drawn
906 by the Chief Financial Officer from the State Treasury.
907 (11)~~(12)~~ Beginning in fiscal year 2007~~6~~-2008~~7~~, the sum of
908 $5 ~~15~~ million is appropriated annually from recurring funds in
909 the General Revenue Fund to the Grants and Donations Trust Fund
910 within the Department of Elderly Affairs for the Johnnie B.

911 Byrd, Sr., Alzheimer's Center and Research Institute at the
912 University of South Florida for the purposes as provided under
913 paragraph (6)(a), conducting and supporting research <u>with</u>
914 <u>funding from private or federal sources or from grants awarded</u>
915 <u>by the James and Esther King Biomedical Research Program</u>,
916 ~~providing institutional research grants and investigator-~~
917 ~~initiated research grants,~~ developing and operating integrated
918 data projects, and providing assistance to statutorily
919 designated memory disorder clinics as provided under s. <u>430.502.</u>
920 ~~Not less than 80 percent of the appropriated funds shall be~~
921 ~~expended for these purposes, and not less than 20 percent of the~~
922 ~~appropriated funds shall be expended for peer-reviewed~~
923 ~~investigator-initiated research grants.~~
924 <u>(12)</u>~~(13)~~ By June 1, 2009, the Division of Statutory
925 Revision of the Office of Legislative Services shall certify to
926 the President of the Senate and the Speaker of the House of
927 Representatives the language and statutory citation of this
928 section, which is scheduled to expire January 1, 2011.
929 <u>(13)</u>~~(14)~~ The Legislature shall review the performance, the
930 outcomes, and the financial management of the Johnnie B. Byrd,
931 Sr., Alzheimer's Center and Research Institute during the 2010
932 Regular Session of the Legislature and shall determine the most
933 appropriate funding source and means of funding the center and
934 institute based on its review.
935 <u>(14)</u>~~(15)~~ This section expires January 1, 2011, unless
936 reviewed and reenacted by the Legislature before that date.
937 Section 12. <u>Sections 381.855, 381.92, and 381.921, Florida</u>
938 <u>Statutes, are repealed.</u>
939 Section 13. <u>If any provision of this act or the</u>
940 <u>application thereof to any person or circumstance is held</u>
941 <u>invalid, the invalidity does not affect other provisions or</u>

942 applications of the act which can be given effect without the
943 invalid provision or application, and to this end the provisions
944 of this act are declared severable.
945 Section 14. This act shall take effect July 1, 2007.
946
947 ================= T I T L E A M E N D M E N T =================
948 Remove the entire title and insert:
949 A bill to be entitled
950 An act relating to biomedical research; amending s.
951 20.435, F.S.; deleting a reference to conform to the
952 provisions of this act; amending s. 215.5601, F.S.; adding
953 a provisions to conform to the provisions on this act;
954 amending s. 215.5602, F.S.; providing legislative findings
955 related to biomedical research; revising provisions
956 relating to the James and Esther King Biomedical Research
957 Program; revising provisions relating to program funds and
958 funding; revising long-term goals of the program; revising
959 membership provisions relating to the Biomedical Research
960 Advisory Council; providing that the council serves as the
961 exclusive source of certain biomedical research grant and
962 fellowship awards; requiring the council to create
963 committees; providing requirements for the committees;
964 revising duties of the council; deleting references to
965 conform to the provisions of this act; revising a
966 requirement relating to the council's annual progress
967 report; prohibiting the use of funds for certain research
968 with human embryonic stem cells or for human cloning;
969 amending s. 381.853, F.S.; revising functions of the
970 Florida Center for Brain Tumor Research; deleting a
971 requirement for the Florida Center for Brain Tumor
972 Research to develop a competitive grant process relating

973 to brain tumor research; amending s. 381.912, F.S.;
974 deleting references to conform to the provisions of this
975 act; amending s. 381.922, F.S.; creating the William G.
976 "Bill" Bankhead, Jr. and David Coley Cancer Research
977 Council effective July 1, 2007 within the Department of
978 Health; providing for organization of the council;
979 providing that the council may create not-for-profit
980 corporate subsidiaries authorized to receive, hold, invest
981 and administer property and monies received from private,
982 local, state, and federal sources; providing for
983 membership of the council; providing that the council
984 members shall serve without compensation; providing for an
985 annual report from the council by December 15 each year;
986 creating s. 381.923, F.S.; providing for mission and
987 duties of the Bankhead-Coley Cancer Council; amending s.
988 381.98, F.S.; revising the purpose of the Florida Public
989 Health Foundation, Inc.; deleting a portion of the mission
990 of the Foundation; deleting the requirement that the
991 Foundation in consultation with the Department and the
992 Florida Center for universal Research to Eradicate Disease
993 to facilitate communication between biomedical researchers
994 and other health care providers; amending s. 430.501,
995 F.S.; adding a provision to preclude the award of grants
996 for biomedical research; amending 430.502, F.S.; adding a
997 provision to preclude the use of state funds for
998 biomedical research; amending s. 1004.445, F.S.; deleting
999 requirement to develop a competitive grant process
1000 relating to Alzheimer's disease research; providing for an
1001 annual appropriation of $5 million beginning fiscal year
1002 2007-2008; requiring that funding for research be provided
1003 from private or federal sources or from grants awarded by

1004 the James and Esther King Biomedical Research Program;
1005 repealing s. 381.855, F.S., relating to the Florida Center
1006 for Universal Research to Eradicate Disease; repealing ss.
1007 381.92 and 381.921, F.S., relating to the Florida Cancer
1008 Council; providing for severability; providing an
1009 effective date.
1010
1011 WHEREAS, the Legislature of the State of Florida finds
1012 that the health of Floridians is of utmost importance, and
1013 WHEREAS, continuing and promoting biomedical research in
1014 the state of Florida is key to finding cures for the and
1015 widespread acute, chronic, and degenerative diseases affecting
1016 millions of Floridians, and
1017 WHEREAS, there are a number of agencies, councils,
1018 committees or other nonprofit entities within the state of
1019 Florida that are currently awarding state dollars for grants or
1020 fellowships for biomedical research in order to find cures for
1021 and improve treatment of various diseases affecting Floridians,
1022 and
1023 WHEREAS, the most effective and efficient use of state
1024 biomedical research dollars is to establish a single,
1025 comprehensive program for the award of state-funded biomedical
1026 research grants and fellowships, and
1027 WHEREAS, the consolidated process for awarding state-
1028 funded grants and fellowships for biomedical research in the
1029 state of Florida will also serve to enhance, encourage and
1030 coordinate biomedical research biomedical research programs
1031 within the state and foster improved transfer of research
1032 findings into clinical trials and widespread public use.
1033

PCB HCC 07-11a

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB HCC 07-11 Model Fixed Payment Service Delivery System
SPONSOR(S): Healthcare Council and Representative Bean
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Healthcare Council		Schoolfield	Gormley
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

Proposed Council Bill HCC-07-11a directs the Agency for Health Care Administration (AHCA) to consult with the Agency for Persons with Disabilities (APD) to create a model fixed-payment service delivery system for persons with developmental disabilities by December 1, 2007. The model program is to be a managed care approach to provide a coordinated system of services that stabilizes the rate of increase in Medicaid expenditures and increases cost predictability. The program will include funds and participants from the Developmental Disabilities Home and Community Based Services Medicaid waiver, Family and Supported Living Medicaid waiver and the Consumer Directed Care Plus Medicaid waiver programs administered by the Agency for Persons with Disabilities.

The model program is to be implemented at an urban and rural pilot site. The rural site is designated as APD Area One, and participation will be mandatory for participants. The urban site is to be selected by AHCA in consultation with APD. Participation at the urban pilot site will be voluntary for Medicaid waiver recipients.

The bill directs the Agency for Health Care Administration to take lead in creation of the model program, seek federal approval, procure qualified managed care entities and conduct rate setting for the program. Upon completion of the development phase of the program, AHCA is to delegate administration and monitoring of the contracts for the pilot program to the Agency for Persons with Disabilities.

The bill allows Community Service Networks, Health Maintenance Organizations and Prepaid Health Plans to submit bids to operate service plans in the pilot sites. The bill also requires the model program to include the use of a standardized assessment process, service provider credentialing, and a quality assurance system. The plan contractors are encouraged to contract with qualified existing providers of the Agency for Persons with Disabilities.

The bill requires AHCA to ensure that capitated rates used in the program are actuarially sound to provide quality care. In addition, AHCA may choose to limit financial risk for managed care entities related to high or catastrophic care cost. AHCA is directed to seek federal Medicaid waivers or state plan amendments to implement the program and adopt rules as needed. An evaluation and report to the Governor and Legislature must be completed by June 2010.

The agency may incur cost associated with providing choice counseling and enrollment broker services associated with this implementation, but not until Fiscal Year 2008/2009. The amount is indeterminate at this time.

The act takes effect on July 1, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government—The bill reduces the role of government in determining the long-term care options available to recipients of the program.

Promote Personal Responsibility—The bill will allow Medicaid recipients greater choice of long-term care service delivery plans.

B. EFFECT OF PROPOSED CHANGES:

Background

Agency for Health Care Administration (AHCA)
The Agency for Health Care Administration (AHCA) has primary responsibility for administering the State Medicaid program for 2.1 million eligible individuals. AHCA administers this program through 11 Area Offices and purchases services from approximately 80,000 fee for service providers and 18 Managed Care Plans. Other state agencies also assist with Medicaid program responsibilities. For example, the Department of Children and Families determines eligibility and the Department of Legal Affairs Medicaid Fraud Control Unit prosecutes Medicaid Fraud. In addition, AHCA operates some of the Medicaid waiver programs for home and community based services through memorandums of agreement with state agencies. The Agency for Persons with Disabilities is under agreement with AHCA to administer three of the Medicaid waiver programs.

The Agency for Persons with Disabilities (APD)
In 2004, the Developmental Disabilities program in the Department of Children and Family Services (DCF or department) was transferred to the newly-created Agency for Persons with Disabilities (APD or agency).[1] The agency is responsible for providing services for persons with developmental disabilities in Florida. The stated agency mission is to support persons with developmental disabilities in living, learning, and working in all aspects of community life.[2]

A developmental disability is defined as "a disorder or syndrome that is attributable to retardation, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely."[3] An individual is eligible for services if their domicile is in Florida, they have a developmental disability, and are three years of age or older.[4] Children who are at high risk of having a developmental disability and are between the ages of 3 and 5 are also eligible for services.[5]

APD Services: During FY 2005-2006, APD served more than 48,000 persons with developmental disabilities.[6] Services provided by the agency include an array of community services and supports, as well as a limited institutional program, and include employment and training services, environmental adaptive equipment, personal or family supports, residential habilitation, support coordination, therapeutic supports, and wellness management. There may be eligibility requirements specific to a particular service or support in addition to the general eligibility criteria for services from APD. The

[1] Chapter 2004-267, L.O.F.
[2] Agency for Persons with Disabilities, briefing materials, October 18, 2005.
[3] s. 393.063(10), F.S.
[4] Children from birth to three years of age with developmental disabilities are served by Children's Medical Services in the Department of Health, s. 393.064, F.S.
[5] "High-risk child" is defined in s. 393.063(23) F.S.
[6] Presentation to Senate Children and Families Committee, January 24, 2007.

majority of services provided to clients of the agency are funded by Medicaid and authorized through a federal waiver. As of September 2006, there were 12,501 people on the APD waitlist for Medicaid waiver services.[7]

The Developmental Disabilities Home and Community-Based Services (DD-HCBS) waiver program is a Medicaid funded program and the largest source of funding for APD services. The funding appropriated for this program during Fiscal Year 2006-2007 is $776,837,838. Services provided through the DD-HCBS waiver program enable children and adults to live in a family setting in their own home or in a licensed residential setting, thereby avoiding institutionalization. Clients receiving services through this program are also eligible for all services in the Medicaid state plan. As of December 2006, APD has 25,418 people enrolled in this program.[8]

The Family and Supported Living (FSL) waiver makes services available to children and adults who live with their family or in their own home. This waiver is capped at $14,282/person each year. The funding appropriated for this program during Fiscal Year 2006-2007 is $74,711,734. Although fewer DD services are available under this waiver, clients are also eligible for all services in the Medicaid state plan. As of December 2006, APD has 6,071 people enrolled in this waiver program.[9]

The Consumer-Directed Care Plus program is the third Medicaid waiver operated by APD. This waiver offers clients great flexibility and choice in the selection of services and providers and the determination of rates of payment. Service providers are often family members or friends. As of June 2006, APD was serving 1,031 individuals in this program with expenditures exceeding $32,500,000.[10]

The agency also provides fiscal and programmatic management of four developmental disabilities institutions serving approximately 1,100 residents. APD also provides community-based services from state only funds for individuals not on Medicaid waivers. The Individual and Family Supports and Contracted Services appropriations are the primary resources used for these services.

In recent years, the Legislature has significantly increased funding to the Medicaid waiver programs allowing the agency to increase the number of clients served, while reducing the waiting list for services. In addition, APD has instituted a number of fiscal and programmatic management controls intended to address escalating costs and growing waiting lists for services. These include a standardized rate structure, prior service authorization, and pre-payment billing reviews. In spite of the management controls employed by APD, the cost of serving people in the APD Medicaid waiver programs is projected to exceed appropriations in FY 2006-2007 by $46,905,017 in state matching funds. The agency reports that the increased use of services by program participants (utilization increase) and caseload are the attributing factors to the projected deficit. Since 2003 the number of services received per participant has increased by 102.14 percent. APD indicated in a January 2007, presentation to the Senate Health and Human Services Appropriation Committee that possible long-term options to address escalating cost include transition to a capitated service model and amending current Medicaid waivers. [11]

Effect of Proposed Legislation:

Model Fixed Payment Service Delivery System: PCB HCC-07-11a directs the Agency for Healthcare Administration (AHCA) in consultation with the Agency for Persons with Disabilities (APD) to create a model fixed payment service delivery system for persons with developmental disabilities who receive services from Medicaid waiver programs operated by APD. The Medicaid waiver programs included in the model are the Developmental Disabilities Home and Community Based Services Medicaid waiver,

[7] Agency for Persons with Disabilities Resource Notebook, November 2006.
[8] Agency for Persons with Disabilities Quarterly Report, Second Quarter 2006-2007, February 2007.
[9] Ibid
[10] APD waiver cost by Area FY 2005-2006, L. Mabile March 13, 2007 email.
[11] Presentation to Senate Health and Human Services Appropriation Committee, January 25, 2007, Agency for Persons with Disabilities.

Family and Supported Living Medicaid waiver and the Consumer Directed Care Plus Medicaid waiver programs. This bill provides legislative intent for the model program, including:

- Increasing cost predictability.
- Stabilizing rate of increase in Medicaid waiver expenditures in the pilot areas.
- Providing recipients a coordinated system of services.

The model fixed-payment service delivery program must also ensure: consumer choice, opportunities for consumer directed services, access to medically necessary services, coordination of community based services and reduction in unnecessary services utilization.

AHCA and APD must create this model program by December 31, 2007, and AHCA has authority to seek Medicaid waivers or amendments necessary to begin implementation of the program.

Pilot Projects: The model fixed-payment service delivery program is to be demonstrated in two pilot areas of the state. One pilot site must be an urban Area of the Agency for Persons with Disabilities. This site will be selected by AHCA in consultation with APD. The participation of Medicaid waiver recipients in the urban area is voluntary. Participants will have the choice of participating in the pilot project or continuing to receive services through the traditional fee for services Medicaid waiver program. APD Area One is designated as the rural pilot site, which includes Okaloosa, Walton, Escambia and Santa Rosa counties. The enrollment into the rural Area one pilot site will be mandatory.

Medicaid waiver Participants and Expenditures in APD Area One Pilot Site[12]

Medicaid Waiver	*Recipients*	*Estimated Expenditures*
Developmental Disabilities HCBS waiver	1,202	$26,073,890
Family and Supported Living waiver	260	$997,233
Consumer Directed Care Plus waiver	38	$827,177
Total	1500	$27,898,300

Project Administration: AHCA has the primary responsibility for creation of the model service delivery program. AHCA is responsible for obtaining any necessary federal Medicaid waivers and/or state plan amendments to implement the model. In addition, AHCA will be responsible for the procurement of qualified entities to operate as managed care organizations for the pilot program at both pilot sites. AHCA will also set the rates that will be paid to the managed care entities. After the "development phase" of the fixed-payment model service delivery program, AHCA is directed to delegate administration of the pilots to APD. The bill calls for APD to administer the contract(s) with the managed care entities, provide quality assurance, monitoring oversight and other duties necessary for the implementation and completion of the pilot programs.

Plan Contractors: The bill requires a competitive procurement process to select entities to serve as the managed care plan contractors in the pilot areas. The entities designated as eligible to submit bids include health maintenance organization and prepaid health plans licensed under chapter 641, Florida Statutes and Community Service Networks. The Community Service Networks are not required to be licensed, but would need to meet standards set by AHCA, demonstrate financial solvency and have the ability to accept financial risk for managing the care of the participants in the pilot areas. An example of a Community Services Network could include existing APD provider organizations that align themselves into a network to provide services under the pilot project. The agency is directed to endeavor to provide a choice of contractors/plans to participants in the pilots.

AHCA is also directed to ensure that plans include the following:

- Standardized needs assessment process: The needs assessment process typically includes a psycho/social assessment instrument to identify the needs of an individual so that appropriate service can be authorized. The assessment used by a plan provider must be approved by AHCA.

[12] APD waiver cost by Area FY 2005-2006, L. Mabile email March 13, 2007.

- Provider choice: Enrollees in the pilot programs will be allowed to choose from among all the providers under contract to the managed care organization as long as the provider chosen is appropriate to meet the need of the individual.
- Subcontracts: The plan contractor is required to make a good faith effort to contract with existing providers of service to the Agency for Persons with Disabilities.
- Subcontract Provider Qualifications: The plan contractor must set subcontractor qualification and quality of care standards. The plans must also exclude where feasible poor performing subcontractors. These standards must be approved by AHCA.
- Quality Assurance: Plan contractors must demonstrate a quality assurance system and performance improvement system which is approved by AHCA.

Capitated Rates: The fixed-payment model service delivery system will use capitated rates that have been determined to be actuarially sound and capable of providing quality care. Capitated rates are rates per person per month paid to managed care plans in advance of service delivery. This is the most common method of payment to managed care organizations for providing services.[13] Managed care is defined as an arrangement where the state Medicaid Program contracts with an organization to provide a package of long-term care benefits on a risk basis.[14] Managed care organizations are considered "at risk" since they receive a fixed payment (capitated rate) for an enrolled participant and then must provide all of the services that are medically necessary for the individual. In other words, they are at risk to ensure that all service needs are met with the funds received. Medical necessity is defined by AHCA in the Florida Administrative Code 59G-1.01(166) (a). This bill allows AHCA to limit the financial risk of the plan contractors to cover high-cost recipients or catastrophic care needs. The bill does not specify how AHCA must address this. However, methods could include the continuation of fee for service payments or offering reinsurance programs for high-cost or catastrophic care individuals in the pilot areas.

Residential Care: The bill requires the plan contractor to allow a participant to continue to live in their licensed residence (home) even if the residence is not a subcontractor with the plan. However, the residential facility must accept either the plan subcontract rate or the Medicaid waiver rates authorized by chapter 409.919, Florida Statutes. The licensed residences that are included in this provision include, Group Homes, Foster Homes, and Residential Habilitation Facilities licensed under chapter 393, Florida Statutes or Assisted Living Facilities and Adult Family Care Homes licensed under chapter 429, Florida Statutes.

Evaluation: The Agency for Health Care Administration is required to procure a comprehensive evaluation of the pilot programs within 24 months of implementation and provide a final report by June 30, 2010. The evaluation will include an assessment of cost savings, cost effectiveness, recipient outcomes, choice, access to services, coordination of care, and quality of care. The evaluation also requires a description of legal and administrative barriers and a recommendation for regarding expansion of the program statewide.

C. SECTION DIRECTORY:

Section 1. Creates subsection 53 of s. 409.912, F.S., providing direction and authorization to the Agency for Health Care Administration to create a model fixed payment service delivery system for people with developmental disabilities, provides pilot sites, contracting and quality requirements for managed care plans. This section gives authority to the Agency for Health Care Administration to procure an evaluation, seek federal waivers, and adopt rules.

Section 2. Provides an effective date of July 1, 2007

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[13] Capitation Rate Development Guide for States Implementing Medicaid Managed Care Programs, National Association of State Medicaid Directors, 1999.

[14] Capitated Payment of Medicaid Long-Term Care for older Americans: An Analysis of Current Methods, Kronick and Dreyfus, AARP Public Policy Institute, 2001-03, March 2001.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The agency may incur cost associated with providing choice counseling and enrollment broker services associated with this implementation, but not until Fiscal Year 2008/2009. This amount is indeterminate at this time.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Entities providing choice counseling services will be able to contract with the agency.

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:

The bill provides the agency with rule-making authority as necessary to implement the pilot program for the model fixed-payment service delivery system.

C. DRAFTING ISSUES OR OTHER COMMENTS:

D. STATEMENT OF THE SPONSOR

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to a model fixed-payment service delivery
3 system for people with developmental disabilities;
4 amending s. 409.912, F.S.; requiring the Agency for Health
5 Care Administration to implement federal waivers to
6 administer a model fixed-payment service delivery system
7 for Medicaid recipients with developmental disabilities;
8 providing legislative intent; providing for implementation
9 of the system on a pilot basis in specified areas of the
10 state; providing for administration of the system by the
11 Agency for Persons with Disabilities; providing
12 requirements for selection of managed care entities to
13 operate the system; providing for mandatory or voluntary
14 enrollment in system pilot areas; requiring an evaluation
15 of the system; requiring the agency to submit a report to
16 the Governor and Legislature; authorizing the agency to
17 seek certain waivers and adopt rules; requiring the agency
18 to receive specific authorization prior to expanding the
19 system; providing an effective date.
20
21 Be It Enacted by the Legislature of the State of Florida:
22
23 Section 1. Subsection (53) is added to section 409.912,
24 Florida Statutes, to read:
25 409.912 Cost-effective purchasing of health care.--The
26 agency shall purchase goods and services for Medicaid recipients
27 in the most cost-effective manner consistent with the delivery of
28 quality medical care. To ensure that medical services are
29 effectively utilized, the agency may, in any case, require a

30 confirmation or second physician's opinion of the correct
31 diagnosis for purposes of authorizing future services under the
32 Medicaid program. This section does not restrict access to
33 emergency services or poststabilization care services as defined
34 in 42 C.F.R. part 438.114. Such confirmation or second opinion
35 shall be rendered in a manner approved by the agency. The agency
36 shall maximize the use of prepaid per capita and prepaid
37 aggregate fixed-sum basis services when appropriate and other
38 alternative service delivery and reimbursement methodologies,
39 including competitive bidding pursuant to s. 287.057, designed to
40 facilitate the cost-effective purchase of a case-managed
41 continuum of care. The agency shall also require providers to
42 minimize the exposure of recipients to the need for acute
43 inpatient, custodial, and other institutional care and the
44 inappropriate or unnecessary use of high-cost services. The
45 agency shall contract with a vendor to monitor and evaluate the
46 clinical practice patterns of providers in order to identify
47 trends that are outside the normal practice patterns of a
48 provider's professional peers or the national guidelines of a
49 provider's professional association. The vendor must be able to
50 provide information and counseling to a provider whose practice
51 patterns are outside the norms, in consultation with the agency,
52 to improve patient care and reduce inappropriate utilization. The
53 agency may mandate prior authorization, drug therapy management,
54 or disease management participation for certain populations of
55 Medicaid beneficiaries, certain drug classes, or particular drugs
56 to prevent fraud, abuse, overuse, and possible dangerous drug
57 interactions. The Pharmaceutical and Therapeutics Committee shall
58 make recommendations to the agency on drugs for which prior

59 authorization is required. The agency shall inform the
60 Pharmaceutical and Therapeutics Committee of its decisions
61 regarding drugs subject to prior authorization. The agency is
62 authorized to limit the entities it contracts with or enrolls as
63 Medicaid providers by developing a provider network through
64 provider credentialing. The agency may competitively bid single-
65 source-provider contracts if procurement of goods or services
66 results in demonstrated cost savings to the state without
67 limiting access to care. The agency may limit its network based
68 on the assessment of beneficiary access to care, provider
69 availability, provider quality standards, time and distance
70 standards for access to care, the cultural competence of the
71 provider network, demographic characteristics of Medicaid
72 beneficiaries, practice and provider-to-beneficiary standards,
73 appointment wait times, beneficiary use of services, provider
74 turnover, provider profiling, provider licensure history,
75 previous program integrity investigations and findings, peer
76 review, provider Medicaid policy and billing compliance records,
77 clinical and medical record audits, and other factors. Providers
78 shall not be entitled to enrollment in the Medicaid provider
79 network. The agency shall determine instances in which allowing
80 Medicaid beneficiaries to purchase durable medical equipment and
81 other goods is less expensive to the Medicaid program than long-
82 term rental of the equipment or goods. The agency may establish
83 rules to facilitate purchases in lieu of long-term rentals in
84 order to protect against fraud and abuse in the Medicaid program
85 as defined in s. 409.913. The agency may seek federal waivers
86 necessary to administer these policies.

87 (53) By December 1, 2007, the Agency for Health Care
88 Administration, in consultation with the Agency for Persons with
89 Disabilities, shall create a model fixed-payment service delivery
90 system for persons with developmental disabilities who receive
91 services under the developmental disabilities waiver program, the
92 family and supported living waiver program, or the consumer-
93 directed care plus waiver program administered by the Agency for
94 Persons with Disabilities. The system must transfer and combine
95 all Medicaid waiver and state-funded services for individuals who
96 participate.
97 (a) The Legislature intends that the system provide
98 recipients in Medicaid waiver programs with a coordinated system
99 of services, increased cost predictability, and a stabilized rate
100 of increase in Medicaid expenditures compared to Medicaid
101 expenditures in the pilot areas specified in paragraph (b) for
102 the 3 years before the system was implemented while ensuring:
103 1. Consumer choice.
104 2. Opportunities for consumer-directed services.
105 3. Access to medically necessary services.
106 4. Coordination of community-based services.
107 5. Reductions in the unnecessary use of services.
108 (b) The agency shall implement the system on a pilot basis
109 in Area 1 of the Agency for Persons with Disabilities and in
110 another area that is determined by the agency, in consultation
111 with the Agency for Persons with Disabilities, to be an
112 appropriate urban pilot site. After completion of the development
113 phase of the system, attainment of necessary federal approval,
114 procurement of qualified entities, and rate setting, the agency
115 shall delegate administration of the system to the Agency for

CODING: Words stricken are deletions; words underlined are additions.

V

116 Persons with Disabilities. The Agency for Persons with
117 Disabilities shall administer contracts with qualified entities
118 and provide quality assurance, monitoring oversight, and other
119 duties necessary for the system. The enrollment of Medicaid
120 waiver recipients into the system in Area 1 shall be mandatory.
121 The enrollment of Medicaid waiver recipients in the urban pilot
122 site shall be voluntary.
123 (c) The agency shall use a competitive procurement process
124 to select entities to operate the system. Entities eligible to
125 submit bids include managed care organizations licensed under
126 chapter 641 and other state-certified community service networks
127 that meet comparable standards of financial solvency, as defined
128 by the agency in consultation with the Agency for Persons with
129 Disabilities and the Office of Insurance Regulation, and that are
130 able to take on financial risk for managed care. Community
131 service networks that are certified pursuant to such comparable
132 standards are not required to be licensed under chapter 641.
133 (d) When the agency implements the system in an area of the
134 state, the agency shall endeavor to provide recipients enrolled
135 in the system with a choice of plans from qualified entities. The
136 agency shall ensure that an entity operating a system, in
137 addition to other requirements:
138 1. Identifies the needs of the recipients using a
139 standardized assessment process approved by the agency.
140 2. Allows a recipient to select any provider that has a
141 contract with the entity, provided that the service offered by
142 the provider is appropriate to meet the needs of the recipient.

143 3. Makes a good faith effort to develop contracts with
144 qualified providers currently under contract with the Agency for
145 Persons with Disabilities.
146 4. Develops and uses a service provider qualification
147 system approved by the agency that describes the quality of care
148 standards that providers of services to persons with
149 developmental disabilities must meet in order to obtain a
150 contract with the plan entity.
151 5. Excludes, when feasible, chronically poor-performing
152 facilities and providers as determined by the agency.
153 6. Demonstrates a quality assurance system and a
154 performance improvement system that are satisfactory to the
155 agency.
156 (e) The agency must ensure that the capitation-rate-setting
157 methodology for the system is actuarially sound and reflects the
158 intent to provide quality care in the least restrictive setting.
159 The agency may choose to limit financial risk for entities
160 operating the system to cover high-cost recipients or to address
161 the catastrophic care needs of recipients enrolled in the system.
162 (f) The system must provide that if the recipient resides
163 in a noncontracted residential facility licensed under chapter
164 393 or chapter 429 at the time of enrollment in the system, the
165 recipient must be permitted to continue to reside in the
166 noncontracted facility. The system must also provide that, in the
167 absence of a contract between the system provider and the
168 residential facility licensed under chapter 393 or chapter 429,
169 the current Medicaid waiver rates must prevail.
170 (g) Within 24 months after implementation, the agency shall
171 contract for a comprehensive evaluation of the system. The

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

V

172 evaluation must include assessments of cost savings, cost-
173 effectiveness, recipient outcomes, consumer choice, access to
174 services, coordination of care, and quality of care. The
175 evaluation must describe administrative or legal barriers to the
176 implementation and operation of the system and include
177 recommendations regarding statewide expansion of the system. The
178 agency shall submit its evaluation report to the Governor, the
179 President of the Senate, and the Speaker of the House of
180 Representatives no later than June 30, 2010.
181 (h) The agency may seek federal waivers or Medicaid state
182 plan amendments and adopt rules as necessary to administer the
183 system on a pilot basis. The agency must receive specific
184 authorization from the Legislature prior to expanding beyond the
185 pilot areas designated for the implementation of the system.
186 Section 2. This act shall take effect July 1, 2007.

Bill No.PCB HCC 07-11a

COUNCIL/COMMITTEE ACTION

ADOPTED __ (Y/N)
ADOPTED AS AMENDED __ (Y/N)
ADOPTED W/O OBJECTION __ (Y/N)
FAILED TO ADOPT __ (Y/N)
WITHDRAWN __ (Y/N)
OTHER ______

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1 Council/Committee hearing bill: Healthcare Council
2 Representative Galvano offered the following:
3
4 **Amendment (with title amendment)**
5 Remove everything after the enacting clause and insert:
6 Be It Enacted by the Legislature of the State of Florida:
7
8 Section 1. Subsection (53) is added to section 409.912,
9 Florida Statutes, to read:
10 409.912 Cost-effective purchasing of health care.--The
11 agency shall purchase goods and services for Medicaid recipients
12 in the most cost-effective manner consistent with the delivery
13 of quality medical care. To ensure that medical services are
14 effectively utilized, the agency may, in any case, require a
15 confirmation or second physician's opinion of the correct
16 diagnosis for purposes of authorizing future services under the
17 Medicaid program. This section does not restrict access to
18 emergency services or poststabilization care services as defined
19 in 42 C.F.R. part 438.114. Such confirmation or second opinion
20 shall be rendered in a manner approved by the agency. The agency
21 shall maximize the use of prepaid per capita and prepaid
22 aggregate fixed-sum basis services when appropriate and other

23 alternative service delivery and reimbursement methodologies,
24 including competitive bidding pursuant to s. 287.057, designed
25 to facilitate the cost-effective purchase of a case-managed
26 continuum of care. The agency shall also require providers to
27 minimize the exposure of recipients to the need for acute
28 inpatient, custodial, and other institutional care and the
29 inappropriate or unnecessary use of high-cost services. The
30 agency shall contract with a vendor to monitor and evaluate the
31 clinical practice patterns of providers in order to identify
32 trends that are outside the normal practice patterns of a
33 provider's professional peers or the national guidelines of a
34 provider's professional association. The vendor must be able to
35 provide information and counseling to a provider whose practice
36 patterns are outside the norms, in consultation with the agency,
37 to improve patient care and reduce inappropriate utilization.
38 The agency may mandate prior authorization, drug therapy
39 management, or disease management participation for certain
40 populations of Medicaid beneficiaries, certain drug classes, or
41 particular drugs to prevent fraud, abuse, overuse, and possible
42 dangerous drug interactions. The Pharmaceutical and Therapeutics
43 Committee shall make recommendations to the agency on drugs for
44 which prior authorization is required. The agency shall inform
45 the Pharmaceutical and Therapeutics Committee of its decisions
46 regarding drugs subject to prior authorization. The agency is
47 authorized to limit the entities it contracts with or enrolls as
48 Medicaid providers by developing a provider network through
49 provider credentialing. The agency may competitively bid single-
50 source-provider contracts if procurement of goods or services
51 results in demonstrated cost savings to the state without
52 limiting access to care. The agency may limit its network based
53 on the assessment of beneficiary access to care, provider

54 availability, provider quality standards, time and distance
55 standards for access to care, the cultural competence of the
56 provider network, demographic characteristics of Medicaid
57 beneficiaries, practice and provider-to-beneficiary standards,
58 appointment wait times, beneficiary use of services, provider
59 turnover, provider profiling, provider licensure history,
60 previous program integrity investigations and findings, peer
61 review, provider Medicaid policy and billing compliance records,
62 clinical and medical record audits, and other factors. Providers
63 shall not be entitled to enrollment in the Medicaid provider
64 network. The agency shall determine instances in which allowing
65 Medicaid beneficiaries to purchase durable medical equipment and
66 other goods is less expensive to the Medicaid program than long-
67 term rental of the equipment or goods. The agency may establish
68 rules to facilitate purchases in lieu of long-term rentals in
69 order to protect against fraud and abuse in the Medicaid program
70 as defined in s. 409.913. The agency may seek federal waivers
71 necessary to administer these policies.
72 (53) By December 1, 2007, the Agency for Health Care
73 Administration, in consultation with the Agency for Persons with
74 Disabilities, shall create a model fixed-payment service
75 delivery system for persons with developmental disabilities who
76 receive services under the developmental disabilities waiver
77 program administered by the Agency for Persons with
78 Disabilities. The family and supported living waiver program,
79 and or the consumer-directed care plus waiver program
80 administered by the Agency for Persons with Disabilities may
81 also be included in the system if the agency determines that it
82 is feasible and will improve coordination of care and management
83 of cost. The system must transfer and combine all Medicaid
84 waiver funded services and state only-funded services including

85 room and board and supported living payments for individuals who
86 participate.
87 (a) The Legislature intends that the system provide
88 recipients in Medicaid waiver programs with a coordinated system
89 of services, increased cost predictability, and a stabilized
90 rate of increase in Medicaid expenditures compared to Medicaid
91 expenditures in the pilot areas specified in paragraph (b) for
92 the 3 years before the system was implemented while ensuring:
93 1. Consumer choice.
94 2. Opportunities for consumer-directed services.
95 3. Access to medically necessary services.
96 4. Coordination of community-based services.
97 5. Reductions in the unnecessary use of services.
98 (b) The agency shall implement the system on a pilot basis
99 in Area 1 of the Agency for Persons with Disabilities and in
100 another area that is determined by the agency, in consultation
101 with the Agency for Persons with Disabilities, to be an
102 appropriate pilot site. After completion of the development
103 phase of the system, attainment of necessary federal approval,
104 procurement of qualified entities, and rate setting, the agency
105 shall delegate administration of the system to the Agency for
106 Persons with Disabilities. The Agency for Persons with
107 Disabilities shall administer contracts with qualified entities
108 and provide quality assurance, monitoring oversight, and other
109 duties necessary for the system. The enrollment of Medicaid
110 waiver recipients into the system in pilot areas shall be
111 mandatory.
112 (c) The agency shall use a competitive procurement process
113 to select entities to operate the system. Entities eligible to
114 submit bids include community service networks that meet
115 standards of financial solvency, as defined and determined by

116 the agency in consultation with the Agency for Persons with
117 Disabilities and the Office of Insurance Regulation, and that
118 are able to take on financial risk for managed care. The agency
119 shall ensure that bid requirements for entities include but are
120 not limited to standards related to:
121 1.Fiscal solvency,
122 2.Quality of care,
123 3.Adequacy of access to provider services,
124 4.Specific requirements of the Medicaid program designed to
125 meet the needs of the Medicaid recipients.
126 5.The network's infrastructure capacity to manage financial
127 transactions, recordkeeping, data collection and other
128 administrative functions.
129 6.The network's ability to submit any financial,
130 programmatic, or recipient encounter data or other
131 information required by the agency to determine the actual
132 services provided and the cost of administering the plan.
133 (d) When the agency implements the system in an area of
134 the state, the agency shall endeavor to provide recipients
135 enrolled in the system with a choice of plans from qualified
136 entities. The agency shall ensure that an entity operating a
137 system, in addition to other requirements:
138 1. Identifies the needs of the recipients using a
139 standardized assessment process approved by the agency.
140 2. Allows a recipient to select any provider that has a
141 contract with the entity, provided that the service offered by
142 the provider is appropriate to meet the needs of the recipient.
143 3. Makes a good faith effort to develop contracts with
144 qualified providers currently under contract with the Agency for
145 Persons with Disabilities.

146 4. Develops and uses a service provider qualification
147 system approved by the agency that describes the quality of care
148 standards that providers of services to persons with
149 developmental disabilities must meet in order to obtain a
150 contract with the plan entity.
151 5. Excludes, when feasible, chronically poor-performing
152 facilities and providers as determined by the agency.
153 6. Demonstrates a quality assurance system and a
154 performance improvement system that are satisfactory to the
155 agency.
156 (e) The agency must ensure that the capitation-rate-
157 setting methodology for the system is actuarially sound and
158 reflects the intent to provide quality care in the least
159 restrictive setting. The agency may choose to limit financial
160 risk for entities operating the system to cover high-cost
161 recipients or to address the catastrophic care needs of
162 recipients enrolled in the system.
163 (f) The system must provide that if the recipient resides
164 in a noncontracted residential facility licensed under chapter
165 393 or chapter 429 at the time of enrollment in the system, the
166 recipient must be permitted to continue to reside in the
167 noncontracted facility. The system must also provide that, in
168 the absence of a contract between the system provider and the
169 residential facility licensed under chapter 393 or chapter 429,
170 the current Medicaid waiver rates must prevail.
171 (g) Within 24 months after implementation, the agency
172 shall contract for a comprehensive evaluation of the system. The
173 evaluation must include assessments of cost savings, cost-
174 effectiveness, recipient outcomes, consumer choice, access to
175 services, coordination of care, and quality of care. The
176 evaluation must describe administrative or legal barriers to the

177 implementation and operation of the system and include
178 recommendations regarding statewide expansion of the system. The
179 agency shall submit its evaluation report to the Governor, the
180 President of the Senate, and the Speaker of the House of
181 Representatives no later than June 30, 2010.
182 (h) The agency may seek federal waivers or Medicaid state
183 plan amendments and adopt rules as necessary to administer the
184 system on a pilot basis. The agency must receive specific
185 authorization from the Legislature prior to expanding beyond the
186 pilot areas designated for the implementation of the system.
187
188
189 ================ T I T L E A M E N D M E N T ================
190 Remove the entire title and insert:
191 A bill to be entitled
192 An act relating to a model fixed-payment service delivery
193 system for people with developmental disabilities;
194 amending s. 409.912, F.S.; requiring the Agency for Health
195 Care Administration to implement federal waivers to
196 administer a model fixed-payment service delivery system
197 for Medicaid recipients with developmental disabilities;
198 providing legislative intent; providing for implementation
199 of the system on a pilot basis in specified areas of the
200 state; providing for administration of the system by the
201 Agency for Persons with Disabilities; providing
202 requirements for selection of entities to operate the
203 system; providing for mandatory enrollment in system pilot
204 areas; requiring an evaluation of the system; requiring
205 the agency to submit a report to the Governor and
206 Legislature; authorizing the agency to seek certain
207 waivers and adopt rules; requiring the agency to receive

208 specific authorization prior to expanding the system;
209 providing an effective date.
210
211

PCB HCC 07-12

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB HCC 07-12 Medicaid
SPONSOR(S): Healthcare Council and Representative Bean
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Healthcare Council		Schoolfield	Gormley
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

The bill provides amendments to section 409.912(5), Florida Statutes, to implement an integrated fixed-payment service delivery system (Florida Senior Care) for Medicaid recipients age 60 and older at two pilot sites. The bill provides the Agency for Health Care Administration with the authority to implement the Florida Senior Care program in accordance with approved federal waivers.

The bill makes participation of eligible individuals voluntary at two pilot sites. The bill specifies that individuals who choose to participate in the pilot may remain in their current licensed residence even if this residence is not under contract to the managed care program operator. The bill also provides enrollees access to an additional grievance processes through the Subscriber Assistance Panel by designating the participating managed care organizations as prepaid health plans. In addition, providers who participate are also provided with a grievance system that includes a formal and informal process. The bill creates a 10-business-day prompt payment requirement for participating managed care organizations in the pilot projects to make payment to nursing homes that bill electronically.

Finally, the bill makes changes to the OPPAGA evaluation requirement and requires AHCA to perform an analysis of to the merits of seeking a combined Medicaid and Medicare federal waiver.

The House version of the General Appropriations Act appropriates $649,384 from the General Revenue Fund and $649,384 in a matching trust fund to provide choice counseling services.

The bill is to be effective July 1, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government—The bill reduces the role of government in determining the long-term care options available to recipients
Promote Personal Responsibility—The bill will allow Medicaid recipients greater choice of health and long-term care services delivery plans.

B. EFFECT OF PROPOSED CHANGES:

Proposed Council Bill HCC-07-11 authorizes the Agency for Healthcare Administration (AHCA) to implement an integrated, fixed-payment service delivery program called Florida Senior Care, which was created in response to 2005 Legislation.[1] The following provides background on the original authorizing legislation, details of the Florida Senior Care program created in response to the legislation, and the effects of this bill, which gives the Agency for Healthcare Administration authority to implement the pilot program.

Background

The 2005 Legislature amended chapter 409.912(5) as part of Medicaid reform legislation to direct the Agency for Health Care in partnership with the Department of Elderly Affairs (DOEA) to create an integrated fixed-payment service delivery system for Medicaid recipients age 60 years of age or older. The program must combine all Medicaid funds for participating recipients (health and long-term care services). This includes Medicaid home and community based waiver services and all mandatory and optional Medicaid service funding authorized in chapters 409.905 and 409.906. Some individuals were excluded from the program including individuals enrolled in the developmental disabilities waiver program, family and supported living waiver program, project AIDS care waiver program, traumatic brain injury and spinal cord injury waiver program, consumer directed care waiver program, program for all inclusive care for the elderly waiver program and residents of institutional care facilities for the developmentally disabled. Medicaid nursing home funds were to be excluded from the program unless AHCA can demonstrate how integration of these funds improves care and is cost effective. The program was to be implemented on a pilot basis in two areas of the state and in one pilot area enrollment the program would be voluntary. The legislation also directed AHCA to competitively procure eligible entities to operate the program and required the credentialing of subcontract service providers. In addition, AHCA was directed to use a capitated rate methodology for the program and to ensure that rates are actuarially sound for providing quality care. The legislation also allowed program participants who enrolled at the implementation of the program to remain in their current licensed residence if they desire. AHCA was given permission by the legislation to seek federal waivers and to adopt rules to administer the program. OPPAGA is required to conduct an evaluation of the pilot program within 24 months of program implementation.

Florida Senior Care Approved Medicaid Waiver [2]

In response to the Legislative directives in chapter 409.912(5), AHCA in partnership with DOEA requested and received approval in September 2006, from federal Centers for Medicaid and Medicare services of 1915(b) and 1915(c) Medicaid waivers to implement the Legislative directive. Called Florida Senior Care, the integrated service delivery program will provide health and long-term care services to Medicaid recipients in two pilot areas of the state. The agency has included nursing home funding in the integrated program and has provided analysis that this will potentially improve coordination of care,

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[1] Senate Bill 838,

[2] Florida Senior Care Summary of Approved Waiver Documents, November 2006, Agency for Health Care Administration.

reduce cost and increase budget predictability. [3] The pilots are planned for demonstration in rural and urban areas. The rural pilot is in Area One (Escambia, Santa Rosa, Okaloosa and Walton counties). The urban pilot is in Area Seven (Seminole, Orange, Osceola and Brevard counties). Individuals participating will have a choice of at least two plans from managed care organizations that will coordinate service delivery. A capitated payment structure is planned to give managed care organizations the flexibility to expend resources on the care needed most and in settings desired most by elder participants.

Florida Senior Care is intended to address fragmentation of service coordination for Medicaid participants by having one managed care organization provide all Medicaid services for a participant age 60 or older, including long term care. This plan includes physician services, hospitalization, prescription drugs, durable medical equipment, transportation, mental health services, and more. Home and Community Based waiver services will be limited as they are now, but the managed care organization can choose to provide additional services as a substitute for other, generally more expensive services such as nursing home care. This flexibility in the service menu is one of the key features of the Florida Senior Care plan.

Florida has operated a voluntary managed long-term care program for dually eligible participants age 65 and older for the last six years. The long-term care community diversion pilot project, also known as the Nursing Home Diversion waiver, currently serves more than 8,500 frail elders with plans to expand to 10,000 participants during Fiscal Year 2006-2007[4]. The Nursing Home Diversion program is fully capitated for almost all Medicaid services for the population served, including Medicare co-pays and deductibles, home and community based services and, if needed, nursing home care. The program is considered successful in providing integrated care with a focus on community based long term care. Limitations to this diversion model include the requirement that participants meet high frailty criteria to enter the program. This ensures that the program serves only individuals that are most needy, but it also increases the financial risk to the managed care plan and denies the plan the opportunity to provide preventative services before frailty advances and caregivers burn out from their care duties. Under Florida Senior Care, the inclusion of all elders, rather than just those who are frail and in need of formal long term care services will allow managed care organizations to spread their risk by incorporating more healthy individuals into their plan.

The Agency for Health Care Administration reports that Florida Senior Care will provide the following:
• *Coordinate all health care services*—Florida Senior Care will coordinate care across all health care settings including primary care doctors, specialists, hospital care, and when needed, long-term care in the home or in a nursing home.
• *Allow seniors to maintain their independence longer*—This system will provide flexibility to deliver care in the home or in the community as an alternative to nursing home care when appropriate based on an individual's needs. As a result, Florida Senior Care will allow Medicaid to provide a greater percentage of home and community based services to Florida's seniors.
• *Allow enrollees to choose the plan that's best for them*—Enrollment counseling will be available to help seniors make an informed choice. Once seniors have selected a plan, enrollees are free to change their primary care provider anytime under Florida Senior Care.
• *Provide a care coordinator to help arrange for needed services while encouraging individuals to participate in developing their plan of care*—Florida Senior Care will help seniors navigate a complicated health care system. Seniors will have one place to contact to arrange for health care services. The provision of a care coordinator will be especially beneficial for seniors who receive services through both the Medicare and Medicaid programs (dual eligible).

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[3] Florida Senior Care: Inclusion of Funds for Medicaid Nursing Home Services, February 16, 2006, Mercer Government Human Services Consulting.
[4] Long-Term Care Community Diversion Pilot Project - Legislative Report, January 2007, Department of Elder Affairs.

Major Program Components

Program Objectives—The Florida Senior Care program is intended to achieve the following outcomes: coordinate care, manage all health costs, and establish accountability for eligible Medicaid participants. In addition, the project strives to promote home and community based services; streamline long term care eligibility determinations; develop new quality management systems; create integrated networks of care at the local level; and develop an appropriate risk adjusted reimbursement method that will include incentives for community living arrangements.

Pilot Areas—As directed by the legislature, two pilot areas were chosen to test the program concept. The Panhandle and Central Florida pilot areas were chosen to represent both rural and urban areas, and will encompass two of the eleven AHCA and Department of Elder Affairs (DOEA) service areas. In selecting the Panhandle area as a pilot, priority was given to an area of the state that has fewer Home and Community Based Service waiver programs to simplify implementation and to promote increased access to services in a predominately rural area of the state.

Eligibility and Enrollment—Most individuals age 60 or older enrolled in Medicaid in the pilot areas will be able to choose a Florida Senior Care provider. Individuals enrolled in certain programs are excluded from Florida Senior Care. Eligible individuals in the pilot areas may opt to continue receiving Medicaid services outside of Florida Senior Care. [5] If the individual does not opt out or select a Florida Senior Care provider within 30 days, they will be automatically enrolled into one of the Florida Senior Care Plans. All individuals may elect to change their plan within 90 days. However, after this time period they must remain in the plan for one year. These individuals will be provided choice counseling to assist them in making an informed choice. An emphasis on face to face counseling will be made for the seniors. The auto-enrollment provision is intended to require individuals to make a conscious choice about Florida Senior Care and to respond to the enrollment offer for the program.

There are approximately 26,000 Medicaid participants age 60 or older who would be eligible for enrollment in a Florida Senior Care plan in the selected pilot areas. Participants will continue to enter the Medicaid program through financial eligibility determination by DCF Offices of Economic Self-Sufficiency or the Social Security Administration. Medical eligibility for long term care services will continue to be determined by the Department of Elder Affairs' CARES (Comprehensive Assessment Review and Evaluation of LTC Services) unit.

Service Provision—All Medicaid services will be available to Florida Senior Care enrollees including primary, acute, and long term care, and prescription medications. Each enrollee will have a care coordinator to assists in planning and coordinating the enrollee's care and in navigating the program. The majority of enrollees in the selected pilot areas, 86 percent, are also eligible for Medicare. These "dual eligibles" will continue to receive Medicare services as they do now, but the Florida Senior Care Coordinator will also assist with coordinating, as much as possible, Medicare and Medicaid services.

Delivery Systems—Managed care organizations will be selected through competitive procurement for each pilot area. A variety of types of entities are eligible to submit bids. Each managed care organization must be able to demonstrate that it has a comprehensive network of qualified providers for each service that must be provided under the plan.

Program Administration—The sate will competitively procure the managed care organizations and administer their contracts. All program decisions will be made by AHCA in partnership with DOEA, who will share operational responsibilities for the Florida Senior Care program. The Department of Children and Family Services its local offices will continue to establish financial eligibility of Medicaid participants under agreement with AHCA. The agency will determine whether managed care organizations seeking

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[5] Note: The panhandle/ Area One pilot site is approved for mandatory enrollment in the federal waiver. However, this bill makes both pilot sites voluntary enrollment. Therefore, individuals at both sites will have to make a choice of whether to participate in the pilot program. In addition, the federal waiver will need to be amended to comport with statute.

to be Florida Senior Care providers meet financial solvency standards and will review quarterly reports from the managed care organizations to ensure that solvency standards are maintained.

Accountability, Monitoring, and Evaluation—An independent evaluation of the pilots will be conducted. If the program meets the goal of creating seamless, integrated care for elders with an emphasis on community based care options and is able to demonstrate that it is not more costly than traditional service models, AHCA and DOEA will re/commend statewide expansion. The Office of Program Policy Analysis and Government Accountability (OPPAGA), in consultation with the Auditor General, will comprehensively evaluate the pilot within 24 months of implementation.

Financing—Funding for the Florida Senior Care program will come from individual Medicaid services line items in the budget, as appropriated by the Florida Legislature. These funds will be taken in proportion to the population age 60 and older served in the pilot areas. Service funds will be pooled in order to make fixed monthly payments to FSC plans for each enrolled individual. Capitated payments will be developed based on the current cost to Medicaid to provide services
for this population.

Effect of Legislation:

The bill amends section 409.912(5), Florida Statutes, to make changes to the integrated fixed-payment delivery system for the implementation of the pilot programs. The following changes or additions are reflected in this bill:

System to Program word change: The name of the integrated fixed payment delivery *system* is changed to integrated fixed-payment delivery *program*. This technical change to using the word program instead of system provides a more accurate description of the project since the project is voluntary at pilot sites and does not comprise the total system of services offered to individuals.

Voluntary Enrollment: The bill changes enrollment to voluntary for both pilot sites. Individuals will have a choice of enrolling in the Florida Senior Care Pilot, remaining in their current service arrangement (e.g. Medipass, Medicaid managed care, Medicaid fee for service or Home and Community Based Medicaid waiver). The change to voluntary will require federal approval of an amendment to the Medicaid waiver for Florida Senior Care. The current pilot sites are AHCA Area One, (Okaloosa, Walton, Escambia and Santa Rosa counties) and Area Seven (Orange, Seminole, Brevard and Osceola counties). The bill also requires the enrollment of participants to conform to the approved federal Medicaid waivers and 409.912(5).

Designates plan operators (entities) as prepaid health plans: This bill designates the plan provider or entity as a prepaid health plan as referenced in section 408.7056(1) (e), Florida Statutes. This designation provides Florida Senior Care enrollees access to the Subscriber Assistance Panel grievance process. All enrollees will have access to internal grievance processes in their health plan and the Medicaid Fair Hearing Process. In addition, Florida Senior Care enrollees will have access to the Subscriber Assistance Panel to hear external grievances from Medicaid recipients in managed care plans.

Provider grievance system: This bill requires the agency to develop and maintain an informal and formal grievance system for providers of service. This provision also directs that the formal system will address grievances which have not been handled informally. This grievance system would give providers a forum for resolving disputes between the managed care entity and subcontract providers as well as the managed care entity and the state. This provision would make Florida Senior Care more consistent with the Medicaid reform pilot requirements for a provider grievance system (409.91211(3)(r).

Allow participants to remain in current residence: The bill amends the current statute to allow individuals who participate in Florida Senior Care to choose to remain in their current residence regardless of when they enter the program. This provision would be contingent on the individual's

current residential facility accepting the Medicaid rate or the contracted rate from the managed care organization. The residential settings are limited to those facilities licensed under chapters 400 and 429, Florida Statutes (e.g., nursing homes, assisted living facilities, adult family care homes, transitional living facilities, and homes for special services).

Prompt Payment for Nursing Homes: The bill requires managed care entities to pay nursing home providers within 10 business days when they submit electronic claims that have sufficient information to process the claim. The nursing home industry has expressed concern about prompt payment under Florida Senior care pilots and warned that cash flow problems could develop if a prompt payment provision was not implemented. The bill also provides an alternate method for managed care entities to make payments to nursing homes on a prospective capitated payment basis. This would provide payment for nursing homes in advance of delivery of services and alleviate cash flow concerns from late payment.

Evaluation by the OPPAGA: This bill amends the existing requirements for an evaluation by OPPAGA as follows:

- Requires OPPAGA to begin the evaluation as soon as Medicaid recipients are enrolled in the plan. This would allow OPPAGA to advise on progress from the beginning of the pilots.
- Sets 24 month duration of the evaluation once Medicaid recipients are enrolled.
- Clarifies the intent of the evaluation which is to assess each of the managed care plans in the program.
- Changes the deadline for a report to the Governor, Speaker of the House, and President of the Senate to December 31, 2009.

State Plan Option: The bill also adds language that allows the agency to seek Medicaid state plan amendments in addition to the existing Medicaid waiver authority in the statute. This addition contemplates changes in federal law under the Deficit Reduction Act which the agency may choose to consider if additional federal approvals are necessary.

Implementation Authority: This bill gives AHCA the authority to implement the Florida Senior Care waivers approved by the federal Centers for Medicaid and Medicare Services. Implementation must be in accordance with section 409.912(5), Florida Statutes.

Additional Analysis for Future waivers: The bill directs AHCA to provide an analysis to the Legislature regarding the merits and challenge of seeking a federal waiver that combines Medicare and Medicaid funding in a program for dually enrolled individuals age 65 and older. Some states (e.g., Wisconsin, Massachusetts and Minnesota) have received federal waivers to operate these type programs.

C. SECTION DIRECTORY:

Section 1: Amends s.409.912(5), F.S., specifying provisions of the integrated fixed-payment delivery program.

Section 2: Amends s. 408.40, F.S., making technical wording changes

Section 3: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

	FY 2007-08	FY 2008-09
Title XIX Medicaid Match	$649,384	$649,384

2. Expenditures:

	FY 2007-08	FY 2008-09
Choice Counseling Services	$900,797	$900,797
Choice Counseling Materials/Training	$124,971	$124,971
Project Manager Contractual Services	$273,000	$273,000
Total	**$1,298,768**	**$1,298,768**
General Revenue Fund	$649,384	$649,384
Administrative Trust Fund	$649,384	$649,384

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   Existing section 409.915, Florida Statutes, relates to county contributions to Medicaid. Existing subsection (a) specifically states that counties shall provide certain payments for Medicaid services "for both health maintenance members and fee-for-service beneficiaries." Existing subsection (b) simply states that counties shall make certain other payments for Medicaid services without reference to beneficiary coverage type, and applies only to fee-for-service enrollees. By application of the doctrine of *expressio unius est exclusio alterius* (the express mention of one thing is the exclusion of the other), *t*he absence of reference to health maintenance members suggests that counties are not be required to make payment for nursing home care provided through FSC. As beneficiaries in the eight counties comprising the pilot sites enroll in managed care programs (and fee-for service arrangements), the state could potentially lose $4,948,641 because of reductions in counties' contributions to nursing home care.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Entities providing choice counseling services will be able to contract with AHCA.

D. FISCAL COMMENTS:

AHCA reports that an appropriation of $1,298,768 is necessary to fund the choice counseling and enrollment broker services necessary to implement Florida Senior Care in the two pilot sites selected. This figure includes $900,797 for choice counseling ($37.82 per recipient for 23,818 anticipated enrollees), $124,971 for the development of choice counseling materials and training for choice counselors, and $273,000 for a contract project manager for the reform projects.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   This bill does not require counties or municipalities to spend funds or to take any action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

D. STATEMENT OF THE SPONSOR

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to Medicaid; amending s. 409.912, F.S.;
3 requiring the Agency for Health Care Administration to
4 implement federal waivers to administer an integrated,
5 fixed-payment delivery program for Medicaid recipients 60
6 years of age or older; providing for voluntary enrollment
7 in the program in specified locations, in accordance with
8 certain requirements; requiring selection of managed care
9 entities to operate the program; providing that such
10 managed care entities shall be considered prepaid health
11 plans; providing for the establishment of informal and
12 formal provider grievance systems; requiring payment of
13 certain nursing home claims within a time certain;
14 providing a timeframe for evaluation of the program by the
15 Office of Program Policy Analysis and Government
16 Accountability; extending the deadline for submission of
17 the evaluation report; authorizing the agency to seek
18 Medicaid state plan amendments; requiring the agency to
19 submit a report to the Legislature; amending s. 408.040,
20 F.S.; conforming terminology to changes made by the act;
21 providing an effective date.
22
23 Be It Enacted by the Legislature of the State of Florida:
24
25 Section 1. Subsection (5) of section 409.912, Florida
26 Statutes, is amended to read:
27 409.912 Cost-effective purchasing of health care.--The
28 agency shall purchase goods and services for Medicaid recipients
29 in the most cost-effective manner consistent with the delivery of

30 quality medical care. To ensure that medical services are
31 effectively utilized, the agency may, in any case, require a
32 confirmation or second physician's opinion of the correct
33 diagnosis for purposes of authorizing future services under the
34 Medicaid program. This section does not restrict access to
35 emergency services or poststabilization care services as defined
36 in 42 C.F.R. part 438.114. Such confirmation or second opinion
37 shall be rendered in a manner approved by the agency. The agency
38 shall maximize the use of prepaid per capita and prepaid
39 aggregate fixed-sum basis services when appropriate and other
40 alternative service delivery and reimbursement methodologies,
41 including competitive bidding pursuant to s. 287.057, designed to
42 facilitate the cost-effective purchase of a case-managed
43 continuum of care. The agency shall also require providers to
44 minimize the exposure of recipients to the need for acute
45 inpatient, custodial, and other institutional care and the
46 inappropriate or unnecessary use of high-cost services. The
47 agency shall contract with a vendor to monitor and evaluate the
48 clinical practice patterns of providers in order to identify
49 trends that are outside the normal practice patterns of a
50 provider's professional peers or the national guidelines of a
51 provider's professional association. The vendor must be able to
52 provide information and counseling to a provider whose practice
53 patterns are outside the norms, in consultation with the agency,
54 to improve patient care and reduce inappropriate utilization. The
55 agency may mandate prior authorization, drug therapy management,
56 or disease management participation for certain populations of
57 Medicaid beneficiaries, certain drug classes, or particular drugs
58 to prevent fraud, abuse, overuse, and possible dangerous drug

59 interactions. The Pharmaceutical and Therapeutics Committee shall
60 make recommendations to the agency on drugs for which prior
61 authorization is required. The agency shall inform the
62 Pharmaceutical and Therapeutics Committee of its decisions
63 regarding drugs subject to prior authorization. The agency is
64 authorized to limit the entities it contracts with or enrolls as
65 Medicaid providers by developing a provider network through
66 provider credentialing. The agency may competitively bid single-
67 source-provider contracts if procurement of goods or services
68 results in demonstrated cost savings to the state without
69 limiting access to care. The agency may limit its network based
70 on the assessment of beneficiary access to care, provider
71 availability, provider quality standards, time and distance
72 standards for access to care, the cultural competence of the
73 provider network, demographic characteristics of Medicaid
74 beneficiaries, practice and provider-to-beneficiary standards,
75 appointment wait times, beneficiary use of services, provider
76 turnover, provider profiling, provider licensure history,
77 previous program integrity investigations and findings, peer
78 review, provider Medicaid policy and billing compliance records,
79 clinical and medical record audits, and other factors. Providers
80 shall not be entitled to enrollment in the Medicaid provider
81 network. The agency shall determine instances in which allowing
82 Medicaid beneficiaries to purchase durable medical equipment and
83 other goods is less expensive to the Medicaid program than long-
84 term rental of the equipment or goods. The agency may establish
85 rules to facilitate purchases in lieu of long-term rentals in
86 order to protect against fraud and abuse in the Medicaid program

87 as defined in s. 409.913. The agency may seek federal waivers
88 necessary to administer these policies.
89 (5) ~~By December 1, 2005,~~ The Agency for Health Care
90 Administration, in partnership with the Department of Elderly
91 Affairs, shall create an integrated, fixed-payment delivery
92 program ~~system~~ for Medicaid recipients who are 60 years of age or
93 older. The Agency for Health Care Administration shall implement
94 the integrated program ~~system~~ initially on a pilot basis in two
95 areas of the state. ~~In one of the areas~~ Enrollment in the pilot
96 areas shall be on a voluntary basis and in accordance with
97 approved federal waivers and this section. The integrated program
98 must transfer all Medicaid services for eligible elderly
99 individuals who choose to participate into an integrated-care
100 management model designed to serve Medicaid recipients in the
101 community. The integrated program must combine all funding for
102 Medicaid services provided to individuals 60 years of age or
103 older into the integrated program ~~system~~, including funds for
104 Medicaid home and community-based waiver services; all Medicaid
105 services authorized in ss. 409.905 and 409.906, excluding funds
106 for Medicaid nursing home services unless the agency is able to
107 demonstrate how the integration of the funds will improve
108 coordinated care for these services in a less costly manner; and
109 Medicare coinsurance and deductibles for persons dually eligible
110 for Medicaid and Medicare as prescribed in s. 409.908(13).
111 (a) Individuals who are 60 years of age or older and
112 enrolled in the developmental disabilities waiver program, the
113 family and supported-living waiver program, the project AIDS care
114 waiver program, the traumatic brain injury and spinal cord injury
115 waiver program, the consumer-directed care waiver program, and

116 the program of all-inclusive care for the elderly program, and
117 residents of institutional care facilities for the
118 developmentally disabled, must be excluded from the integrated
119 program ~~system~~.
120 (b) The integrated program must use a competitive
121 procurement process to select managed care entities to operate
122 the integrated program ~~system~~. For the purpose of this section,
123 managed care entities shall be considered prepaid health plans as
124 provided in s. 408.7056(1)(e). Entities eligible to submit bids
125 include managed care organizations licensed under chapter 641,
126 including entities eligible to participate in the nursing home
127 diversion program, other qualified providers as defined in s.
128 430.703(7), community care for the elderly lead agencies, and
129 other state-certified community service networks that meet
130 comparable standards as defined by the agency, in consultation
131 with the Department of Elderly Affairs and the Office of
132 Insurance Regulation, to be financially solvent and able to take
133 on financial risk for managed care. Community service networks
134 that are certified pursuant to the comparable standards defined
135 by the agency are not required to be licensed under chapter 641.
136 (c) The agency must ensure that the capitation-rate-setting
137 methodology for the integrated program ~~system~~ is actuarially
138 sound and reflects the intent to provide quality care in the
139 least restrictive setting. The agency must also require
140 integrated-program ~~integrated system~~ providers to develop a
141 credentialing system for service providers and to contract with
142 all Gold Seal nursing homes, where feasible, and exclude, where
143 feasible, chronically poor-performing facilities and providers as
144 defined by the agency. The integrated program must develop and

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

145 maintain an informal provider grievance system that addresses
146 provider payment and contract problems. The agency shall also
147 establish a formal grievance system to address those issues that
148 were not resolved through the informal grievance system. The
149 integrated program ~~system~~ must provide that if the recipient
150 resides in a noncontracted residential facility licensed under
151 chapter 400 or chapter 429 at the time of enrollment in the
152 integrated program ~~system is initiated~~, the recipient must be
153 permitted to continue to reside in the noncontracted facility as
154 long as the recipient desires. The integrated program ~~system~~ must
155 also provide that, in the absence of a contract between the
156 integrated-program ~~integrated system~~ provider and the residential
157 facility licensed under chapter 400 or chapter 429, current
158 Medicaid rates must prevail. The integrated-program provider must
159 ensure that electronic nursing home claims that contain
160 sufficient information for processing are paid within 10 business
161 days after receipt. Alternately, the integrated-program provider
162 may establish a capitated payment mechanism to prospectively pay
163 nursing homes at the beginning of each month. The agency and the
164 Department of Elderly Affairs must jointly develop procedures to
165 manage the services provided through the integrated program
166 ~~system~~ in order to ensure quality and recipient choice.
167 (d) ~~Within 24 months after implementation,~~ The Office of
168 Program Policy Analysis and Government Accountability, in
169 consultation with the Auditor General, shall comprehensively
170 evaluate the pilot project for the integrated, fixed-payment
171 delivery program ~~system~~ for Medicaid recipients created under
172 this subsection ~~who are 60 years of age or older~~. The evaluation
173 shall begin as soon as Medicaid recipients are enrolled in the

174 managed care pilot program plans and shall continue for 24 months
175 thereafter. The evaluation must include assessments of each
176 managed care plan in the integrated program with regard to cost
177 savings; consumer education, choice, and access to services;
178 coordination of care; and quality of care. The evaluation must
179 describe administrative or legal barriers to the implementation
180 and operation of the pilot program and include recommendations
181 regarding statewide expansion of the pilot program. The office
182 shall submit its ~~an~~ evaluation report to the Governor, the
183 President of the Senate, and the Speaker of the House of
184 Representatives no later than December 31, 2009 ~~June 30, 2008~~.
185 (e) The agency may seek federal waivers or Medicaid state
186 plan amendments and adopt rules as necessary to administer the
187 integrated program ~~system~~. The agency may implement the approved
188 federal waivers and other provisions as specified in this
189 subsection ~~must receive specific authorization from the~~
190 ~~Legislature prior to implementing the waiver for the integrated~~
191 ~~system~~.
192 (f) No later than December 31, 2007, the agency shall
193 provide a report to the President of the Senate and the Speaker
194 of the House of Representatives containing an analysis of the
195 merits and challenges of seeking a waiver to implement a
196 voluntary program that integrates payments and services for
197 dually enrolled Medicare and Medicaid recipients who are 65 years
198 of age or older.
199 Section 2. Paragraph (d) of subsection (1) of section
200 408.040, Florida Statutes, is amended to read:
201 408.040 Conditions and monitoring.--
202 (1)

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V

203 (d) If a nursing home is located in a county in which a
204 long-term care community diversion pilot project has been
205 implemented under s. 430.705 or in a county in which an
206 integrated, fixed-payment delivery program ~~system~~ for Medicaid
207 recipients who are 60 years of age or older has been implemented
208 under s. 409.912(5), the nursing home may request a reduction in
209 the percentage of annual patient days used by residents who are
210 eligible for care under Title XIX of the Social Security Act,
211 which is a condition of the nursing home's certificate of need.
212 The agency shall automatically grant the nursing home's request
213 if the reduction is not more than 15 percent of the nursing
214 home's annual Medicaid-patient-days condition. A nursing home may
215 submit only one request every 2 years for an automatic reduction.
216 A requesting nursing home must notify the agency in writing at
217 least 60 days in advance of its intent to reduce its annual
218 Medicaid-patient-days condition by not more than 15 percent. The
219 agency must acknowledge the request in writing and must change
220 its records to reflect the revised certificate-of-need condition.
221 This paragraph expires June 30, 2011.
222 Section 3. This act shall take effect July 1, 2007.

PCB HCC 07-13

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB HCC 07-13 Health Care
SPONSOR(S): Healthcare Council and Representative Bean
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Healthcare Council		Pridgeon	Gormley
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

The bill makes changes to the criteria for which payments are distributed in the Medicaid Disproportionate Share Program. These statutory changes are necessary to implement the Medicaid Disproportionate Share Program funding decisions included in the House version of the General Appropriations Act.

The bill provides $208.3 million ($6.2 in state funds, $83.7 in local government or other local political division contributions and $118.3 million in federal funds) in special payments to hospitals that provide a disproportionate share of the Medicaid or charity care services to uninsured individuals

This bill has an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government—The bill provides $208.3 million in special payments to hospitals that provide a disproportionate share of the Medicaid or charity care services to uninsured individuals.

B. EFFECT OF PROPOSED CHANGES:

Each year the Low-Income Pool Council (formerly Disproportionate Share Council) makes recommendations to the Legislature on the Medicaid Disproportionate Share Program funding distributions to hospitals that provide a disproportionate share of the Medicaid or charity care services to uninsured individuals. This bill amends chapter 409, Florida Statutes, to implement the current recommendations of the Low-Income Pool Council.

The bill amends section 409.911, Florida Statutes, revising the method for calculating disproportionate share payments to hospitals for Fiscal Year 2007-2008 by changing the years of averaged audited data from 2000, 2001 and 2002 to 2001, 2002 and 2003. The bill amends section 409.9112, Florida Statutes, revising the time period from Fiscal Year 2006-2007 to Fiscal Year 2007-2008 during which the agency is prohibited from distributing funds under the Disproportionate Share Program for Regional Perinatal Intensive Care Centers. The bill also amends section 409.9113, Florida Statutes, requiring that funds for statutorily defined teaching hospitals in Fiscal Year 2007-2008 be distributed in the same proportion as funds were distributed under the Disproportionate Share Program for Teaching Hospitals in Fiscal Year 2003-04. Finally, the bill amends section 409.9117, Florida Statutes, revising the time period from Fiscal Year 2006-2007 to Fiscal Year 2007-2008 during which the agency is prohibited from distributing funds under the Primary Care Disproportionate Share Program.

C. SECTION DIRECTORY:

Section 1. Amends s. 409.911, F.S., implementing Fiscal Year 2007-2008 provisions to the Disproportionate Share Program.

Section 2. Amends s. 409.9112, F.S., implementing Fiscal Year 2007-2008 provisions for the Disproportionate Share Program for Regional Perinatal Intensive Care Centers.

Section 3. Amends s. 409.9113, F.S., implementing Fiscal Year 2007-2008 provisions for the Disproportionate Share Program for Teaching Hospitals.

Section 4. Amends s. 409.9117, F.S., implementing Fiscal Year 2007-2008 provisions for the Primary Care Disproportionate Share Program.

Section 5. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   $118.4 million—Medicaid funds

2. Expenditures:

$6.2 million—General Revenue funds transferred from the Department of Health for the Disproportionate Share Program for Teaching Hospitals

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

$83.7 million in local governments and other local political subdivisions contributions

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Hospitals providing a disproportionate share of Medicaid or charity care services will receive additional reimbursements towards the cost of providing care to uninsured individuals.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None

B. RULE-MAKING AUTHORITY:

No additional rulemaking authority is required to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

D. STATEMENT OF THE SPONSOR

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to health care; amending s. 409.911, F.S.;
3 revising the method for calculating disproportionate share
4 payments to hospitals; amending s. 409.9112, F.S.;
5 revising the time period during which the Agency for
6 Health Care Administration is prohibited from distributing
7 disproportionate share payments to regional perinatal
8 intensive care centers; amending s. 409.9113, F.S.;
9 revising the time period for distribution of
10 disproportionate share payments to teaching hospitals;
11 amending s. 409.9117, F.S.; revising the time period
12 during which the agency is prohibited from distributing
13 certain moneys under the primary care disproportionate
14 share program; providing an effective date.
15
16 Be It Enacted by the Legislature of the State of Florida:
17
18 Section 1. Subsection (2) of section 409.911, Florida
19 Statutes, is amended to read:
20 409.911 Disproportionate share program.--Subject to
21 specific allocations established within the General
22 Appropriations Act and any limitations established pursuant to
23 chapter 216, the agency shall distribute, pursuant to this
24 section, moneys to hospitals providing a disproportionate share
25 of Medicaid or charity care services by making quarterly Medicaid
26 payments as required. Notwithstanding the provisions of s.
27 409.915, counties are exempt from contributing toward the cost of
28 this special reimbursement for hospitals serving a
29 disproportionate share of low-income patients.

CODING: Words ~~stricken~~ are deletions; words <u>underlined</u> are additions.

V

30 (2) The Agency for Health Care Administration shall use the
31 following actual audited data to determine the Medicaid days and
32 charity care to be used in calculating the disproportionate share
33 payment:
34 (a) The average of the 2001, 2002, and 2003 ~~2000, 2001, and~~
35 ~~2002~~ audited disproportionate share data to determine each
36 hospital's Medicaid days and charity care for the 2007-2008 ~~2006-~~
37 ~~2007~~ state fiscal year.
38 (b) If the Agency for Health Care Administration does not
39 have the prescribed 3 years of audited disproportionate share
40 data as noted in paragraph (a) for a hospital, the agency shall
41 use the average of the years of the audited disproportionate
42 share data as noted in paragraph (a) which is available.
43 (c) In accordance with s. 1923(b) of the Social Security
44 Act, a hospital with a Medicaid inpatient utilization rate
45 greater than one standard deviation above the statewide mean or a
46 hospital with a low-income utilization rate of 25 percent or
47 greater shall qualify for reimbursement.
48 Section 2. Section 409.9112, Florida Statutes, is amended
49 to read:
50 409.9112 Disproportionate share program for regional
51 perinatal intensive care centers.--In addition to the payments
52 made under s. 409.911, the Agency for Health Care Administration
53 shall design and implement a system of making disproportionate
54 share payments to those hospitals that participate in the
55 regional perinatal intensive care center program established
56 pursuant to chapter 383. This system of payments shall conform
57 with federal requirements and shall distribute funds in each
58 fiscal year for which an appropriation is made by making

59 quarterly Medicaid payments. Notwithstanding the provisions of s.
60 409.915, counties are exempt from contributing toward the cost of
61 this special reimbursement for hospitals serving a
62 disproportionate share of low-income patients. For the state
63 fiscal year 2007-2008 ~~2005-2006~~, the agency shall not distribute
64 moneys under the regional perinatal intensive care centers
65 disproportionate share program.

66 (1) The following formula shall be used by the agency to
67 calculate the total amount earned for hospitals that participate
68 in the regional perinatal intensive care center program:

69

70 TAE = HDSP/THDSP

71

72 Where:

73 TAE = total amount earned by a regional perinatal intensive
74 care center.

75 HDSP = the prior state fiscal year regional perinatal
76 intensive care center disproportionate share payment to the
77 individual hospital.

78 THDSP = the prior state fiscal year total regional perinatal
79 intensive care center disproportionate share payments to all
80 hospitals.

81 (2) The total additional payment for hospitals that
82 participate in the regional perinatal intensive care center
83 program shall be calculated by the agency as follows:

84

85 TAP = TAE x TA

86

87 Where:

88 TAP = total additional payment for a regional perinatal
89 intensive care center.
90 TAE = total amount earned by a regional perinatal intensive
91 care center.
92 TA = total appropriation for the regional perinatal
93 intensive care center disproportionate share program.
94 (3) In order to receive payments under this section, a
95 hospital must be participating in the regional perinatal
96 intensive care center program pursuant to chapter 383 and must
97 meet the following additional requirements:
98 (a) Agree to conform to all departmental and agency
99 requirements to ensure high quality in the provision of services,
100 including criteria adopted by departmental and agency rule
101 concerning staffing ratios, medical records, standards of care,
102 equipment, space, and such other standards and criteria as the
103 department and agency deem appropriate as specified by rule.
104 (b) Agree to provide information to the department and
105 agency, in a form and manner to be prescribed by rule of the
106 department and agency, concerning the care provided to all
107 patients in neonatal intensive care centers and high-risk
108 maternity care.
109 (c) Agree to accept all patients for neonatal intensive
110 care and high-risk maternity care, regardless of ability to pay,
111 on a functional space-available basis.
112 (d) Agree to develop arrangements with other maternity and
113 neonatal care providers in the hospital's region for the
114 appropriate receipt and transfer of patients in need of
115 specialized maternity and neonatal intensive care services.

116 (e) Agree to establish and provide a developmental
117 evaluation and services program for certain high-risk neonates,
118 as prescribed and defined by rule of the department.
119 (f) Agree to sponsor a program of continuing education in
120 perinatal care for health care professionals within the region of
121 the hospital, as specified by rule.
122 (g) Agree to provide backup and referral services to the
123 department's county health departments and other low-income
124 perinatal providers within the hospital's region, including the
125 development of written agreements between these organizations and
126 the hospital.
127 (h) Agree to arrange for transportation for high-risk
128 obstetrical patients and neonates in need of transfer from the
129 community to the hospital or from the hospital to another more
130 appropriate facility.
131 (4) Hospitals which fail to comply with any of the
132 conditions in subsection (3) or the applicable rules of the
133 department and agency shall not receive any payments under this
134 section until full compliance is achieved. A hospital which is
135 not in compliance in two or more consecutive quarters shall not
136 receive its share of the funds. Any forfeited funds shall be
137 distributed by the remaining participating regional perinatal
138 intensive care center program hospitals.
139 Section 3. Section 409.9113, Florida Statutes, is amended
140 to read:
141 409.9113 Disproportionate share program for teaching
142 hospitals.--In addition to the payments made under ss. 409.911
143 and 409.9112, the Agency for Health Care Administration shall
144 make disproportionate share payments to statutorily defined

145 teaching hospitals for their increased costs associated with
146 medical education programs and for tertiary health care services
147 provided to the indigent. This system of payments shall conform
148 with federal requirements and shall distribute funds in each
149 fiscal year for which an appropriation is made by making
150 quarterly Medicaid payments. Notwithstanding s. 409.915, counties
151 are exempt from contributing toward the cost of this special
152 reimbursement for hospitals serving a disproportionate share of
153 low-income patients. For the state fiscal year 2007-2008 ~~2006-~~
154 ~~2007~~, the agency shall distribute the moneys provided in the
155 General Appropriations Act to statutorily defined teaching
156 hospitals and family practice teaching hospitals under the
157 teaching hospital disproportionate share program. The funds
158 provided for statutorily defined teaching hospitals shall be
159 distributed in the same proportion as the state fiscal year 2003-
160 2004 teaching hospital disproportionate share funds were
161 distributed. The funds provided for family practice teaching
162 hospitals shall be distributed equally among family practice
163 teaching hospitals.
164 (1) On or before September 15 of each year, the Agency for
165 Health Care Administration shall calculate an allocation fraction
166 to be used for distributing funds to state statutory teaching
167 hospitals. Subsequent to the end of each quarter of the state
168 fiscal year, the agency shall distribute to each statutory
169 teaching hospital, as defined in s. 408.07, an amount determined
170 by multiplying one-fourth of the funds appropriated for this
171 purpose by the Legislature times such hospital's allocation
172 fraction. The allocation fraction for each such hospital shall be

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173 determined by the sum of three primary factors, divided by three.
174 The primary factors are:
175 (a) The number of nationally accredited graduate medical
176 education programs offered by the hospital, including programs
177 accredited by the Accreditation Council for Graduate Medical
178 Education and the combined Internal Medicine and Pediatrics
179 programs acceptable to both the American Board of Internal
180 Medicine and the American Board of Pediatrics at the beginning of
181 the state fiscal year preceding the date on which the allocation
182 fraction is calculated. The numerical value of this factor is the
183 fraction that the hospital represents of the total number of
184 programs, where the total is computed for all state statutory
185 teaching hospitals.
186 (b) The number of full-time equivalent trainees in the
187 hospital, which comprises two components:
188 1. The number of trainees enrolled in nationally accredited
189 graduate medical education programs, as defined in paragraph (a).
190 Full-time equivalents are computed using the fraction of the year
191 during which each trainee is primarily assigned to the given
192 institution, over the state fiscal year preceding the date on
193 which the allocation fraction is calculated. The numerical value
194 of this factor is the fraction that the hospital represents of
195 the total number of full-time equivalent trainees enrolled in
196 accredited graduate programs, where the total is computed for all
197 state statutory teaching hospitals.
198 2. The number of medical students enrolled in accredited
199 colleges of medicine and engaged in clinical activities,
200 including required clinical clerkships and clinical electives.
201 Full-time equivalents are computed using the fraction of the year

202 during which each trainee is primarily assigned to the given
203 institution, over the course of the state fiscal year preceding
204 the date on which the allocation fraction is calculated. The
205 numerical value of this factor is the fraction that the given
206 hospital represents of the total number of full-time equivalent
207 students enrolled in accredited colleges of medicine, where the
208 total is computed for all state statutory teaching hospitals.
209
210 The primary factor for full-time equivalent trainees is computed
211 as the sum of these two components, divided by two.
212 (c) A service index that comprises three components:
213 1. The Agency for Health Care Administration Service Index,
214 computed by applying the standard Service Inventory Scores
215 established by the Agency for Health Care Administration to
216 services offered by the given hospital, as reported on Worksheet
217 A-2 for the last fiscal year reported to the agency before the
218 date on which the allocation fraction is calculated. The
219 numerical value of this factor is the fraction that the given
220 hospital represents of the total Agency for Health Care
221 Administration Service Index values, where the total is computed
222 for all state statutory teaching hospitals.
223 2. A volume-weighted service index, computed by applying
224 the standard Service Inventory Scores established by the Agency
225 for Health Care Administration to the volume of each service,
226 expressed in terms of the standard units of measure reported on
227 Worksheet A-2 for the last fiscal year reported to the agency
228 before the date on which the allocation factor is calculated. The
229 numerical value of this factor is the fraction that the given
230 hospital represents of the total volume-weighted service index

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231 values, where the total is computed for all state statutory
232 teaching hospitals.
233 3. Total Medicaid payments to each hospital for direct
234 inpatient and outpatient services during the fiscal year
235 preceding the date on which the allocation factor is calculated.
236 This includes payments made to each hospital for such services by
237 Medicaid prepaid health plans, whether the plan was administered
238 by the hospital or not. The numerical value of this factor is the
239 fraction that each hospital represents of the total of such
240 Medicaid payments, where the total is computed for all state
241 statutory teaching hospitals.
242
243 The primary factor for the service index is computed as the sum
244 of these three components, divided by three.
245 (2) By October 1 of each year, the agency shall use the
246 following formula to calculate the maximum additional
247 disproportionate share payment for statutorily defined teaching
248 hospitals:
249
250 TAP = THAF x A
251
252 Where:
253 TAP = total additional payment.
254 THAF = teaching hospital allocation factor.
255 A = amount appropriated for a teaching hospital
256 disproportionate share program.
257 Section 4. Section 409.9117, Florida Statutes, is amended
258 to read:

259 409.9117 Primary care disproportionate share program.--For
260 the state fiscal year 2007-2008 ~~2006-2007~~, the agency shall not
261 distribute moneys under the primary care disproportionate share
262 program.
263 (1) If federal funds are available for disproportionate
264 share programs in addition to those otherwise provided by law,
265 there shall be created a primary care disproportionate share
266 program.
267 (2) The following formula shall be used by the agency to
268 calculate the total amount earned for hospitals that participate
269 in the primary care disproportionate share program:
270
271 TAE = HDSP/THDSP
272
273 Where:
274 TAE = total amount earned by a hospital participating in the
275 primary care disproportionate share program.
276 HDSP = the prior state fiscal year primary care
277 disproportionate share payment to the individual hospital.
278 THDSP = the prior state fiscal year total primary care
279 disproportionate share payments to all hospitals.
280 (3) The total additional payment for hospitals that
281 participate in the primary care disproportionate share program
282 shall be calculated by the agency as follows:
283
284 TAP = TAE x TA
285
286 Where:
287 TAP = total additional payment for a primary care hospital.

288 TAE = total amount earned by a primary care hospital.
289 TA = total appropriation for the primary care
290 disproportionate share program.
291 (4) In the establishment and funding of this program, the
292 agency shall use the following criteria in addition to those
293 specified in s. 409.911, payments may not be made to a hospital
294 unless the hospital agrees to:
295 (a) Cooperate with a Medicaid prepaid health plan, if one
296 exists in the community.
297 (b) Ensure the availability of primary and specialty care
298 physicians to Medicaid recipients who are not enrolled in a
299 prepaid capitated arrangement and who are in need of access to
300 such physicians.
301 (c) Coordinate and provide primary care services free of
302 charge, except copayments, to all persons with incomes up to 100
303 percent of the federal poverty level who are not otherwise
304 covered by Medicaid or another program administered by a
305 governmental entity, and to provide such services based on a
306 sliding fee scale to all persons with incomes up to 200 percent
307 of the federal poverty level who are not otherwise covered by
308 Medicaid or another program administered by a governmental
309 entity, except that eligibility may be limited to persons who
310 reside within a more limited area, as agreed to by the agency and
311 the hospital.
312 (d) Contract with any federally qualified health center, if
313 one exists within the agreed geopolitical boundaries, concerning
314 the provision of primary care services, in order to guarantee
315 delivery of services in a nonduplicative fashion, and to provide
316 for referral arrangements, privileges, and admissions, as

317 appropriate. The hospital shall agree to provide at an onsite or
318 offsite facility primary care services within 24 hours to which
319 all Medicaid recipients and persons eligible under this paragraph
320 who do not require emergency room services are referred during
321 normal daylight hours.
322 (e) Cooperate with the agency, the county, and other
323 entities to ensure the provision of certain public health
324 services, case management, referral and acceptance of patients,
325 and sharing of epidemiological data, as the agency and the
326 hospital find mutually necessary and desirable to promote and
327 protect the public health within the agreed geopolitical
328 boundaries.
329 (f) In cooperation with the county in which the hospital
330 resides, develop a low-cost, outpatient, prepaid health care
331 program to persons who are not eligible for the Medicaid program,
332 and who reside within the area.
333 (g) Provide inpatient services to residents within the area
334 who are not eligible for Medicaid or Medicare, and who do not
335 have private health insurance, regardless of ability to pay, on
336 the basis of available space, except that nothing shall prevent
337 the hospital from establishing bill collection programs based on
338 ability to pay.
339 (h) Work with the Florida Healthy Kids Corporation, the
340 Florida Health Care Purchasing Cooperative, and business health
341 coalitions, as appropriate, to develop a feasibility study and
342 plan to provide a low-cost comprehensive health insurance plan to
343 persons who reside within the area and who do not have access to
344 such a plan.

345 (i) Work with public health officials and other experts to
346 provide community health education and prevention activities
347 designed to promote healthy lifestyles and appropriate use of
348 health services.
349 (j) Work with the local health council to develop a plan
350 for promoting access to affordable health care services for all
351 persons who reside within the area, including, but not limited
352 to, public health services, primary care services, inpatient
353 services, and affordable health insurance generally.
354
355 Any hospital that fails to comply with any of the provisions of
356 this subsection, or any other contractual condition, may not
357 receive payments under this section until full compliance is
358 achieved.
359 Section 5. This act shall take effect July 1, 2007.