

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

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

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Prepared By: The Professional Staff of the Appropriations Subcommittee on Education

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**BILL:** PCS/CS/SB 1260 (875702)

**INTRODUCER:** Appropriations Subcommittee on Education; Children, Families, and Elder Affairs Committee; and Senator Bean

**SUBJECT:** Florida Centers for Independent Living

**DATE:** April 10, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Crosier	Hendon	CF	<b>Fav/CS</b>
2.	Sikes	Kynoch	AED	<b>Recommend: Fav/CS</b>
3.			FP	

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

PCS/CS/SB 1260 renames the James Patrick Memorial Work Incentive Personal Attendant Services Program as the James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program. An advisory committee is established and the Florida Association for Independent Living will provide administrative support. Additionally, the bill allows volunteers to provide assistance on an intermittent basis for less than 10 hours per month at centers for independent living under certain conditions.

The bill has no fiscal impact on state funds.

The bill has an effective date of July 1, 2015.

**II. Present Situation:**

**Personal Care Attendance Program**

Sections 413.402 and 413.4021, F.S., establish and provide a specific funding source for a personal care attendant program (PCA program) to provide personal care attendants to eligible persons with severe and chronic disabilities. The PCA program was established as a pilot in

2002<sup>1</sup> and made permanent and statewide in 2005.<sup>2</sup> Currently, there are 16 Centers for Independent Living (CILS) operating in Florida. The CILS provided independent living services to 21,938 people from October 1, 2013 to September 30, 2014.<sup>3</sup>

Pursuant to s. 413.402, F.S., the Florida Endowment Foundation for Vocational Rehabilitation (FEFVR, also known as the Able Trust)<sup>4</sup> is required to enter into an agreement with the Florida Association for Centers for Independent Living (FACIL) to administer the program. The administrative expense of FACIL is paid from funds deposited with FEFVR pursuant to the Tax Collection Enforcement Diversion Program<sup>5</sup> and the Motorcycle Specialty License Plate program.<sup>6</sup>

Persons eligible to participate in the program must:

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

Training for program participants on hiring and managing a personal care attendant shall be provided by FACIL. Additionally, FACIL coordinates with the Department of Revenue (DOR) and the Florida Prosecuting Attorneys Association (FPAA) on the selection of the judicial circuits in which to operate the program.

There are two funding sources for the PCA program:

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

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

In conjunction with the establishment of the PCA program, DOR was directed, in cooperation with FACIL and FPAA, to select judicial circuits in which to operate a tax collection enforcement diversion program (“tax diversion program”) to collect unpaid sales taxes from delinquent business owners.<sup>8</sup> Fifty percent of the collections from the tax diversion program are deposited into the operating account of FEFVR to be used to operate the PCA program and to

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<sup>1</sup> Chapter 2002-286, L.O.F.

<sup>2</sup> Chapter 2005-172, L.O.F.

<sup>3</sup> See E-mail from Tonya Cooper, Legislative Affairs Director, Florida Department of Education (March 30, 2015) (on filed with the Senate Committee on Children, Families, and Elder Affairs).

<sup>4</sup> See [http://www.abletrust.org/links/AnnRept\\_011.pdf](http://www.abletrust.org/links/AnnRept_011.pdf) (last visited March 30, 2015)

<sup>5</sup> Section 413.4021(1), F.S.

<sup>6</sup> Section 320.08068(4)(d), F.S.

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

<sup>8</sup> Section 413.4021, F.S.

contract with the state attorneys participating in the tax diversion program.<sup>9</sup> Sixteen centers in all 20 circuits participate in the tax diversion program.<sup>10</sup>

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

The Department of Highway Safety and Motor Vehicles (DHSMV) offers a specialty tax to any owner or lessee of a motorcycle who chooses to pay the additional cost.<sup>11</sup> DHSMV collects an annual use fee of \$20 from the sale of each motorcycle specialty license plate and distributes the fees to the Able Trust. The Able Trust is permitted to retain a maximum of 10 percent of the funds for administrative costs and distribute the remaining funds as follows:

- Twenty percent to the Brain and Spinal Cord Injury Program Trust Fund;
- Twenty percent to Prevent Blindness Florida;
- Twenty percent to the Blind Services Foundation of Florida;
- Twenty percent to FEFVR to support the PCA program; and
- Twenty percent to FACIL.<sup>12</sup>

### **Background Screening Requirements for Service Providers**

Service providers are persons or entities who provide employment services, supported employment services, independent living services, self-employment services, personal assistance services, vocational evaluation or tutorial services, or rehabilitation technology services on a contractual or fee-for-service basis to vulnerable persons.<sup>13</sup> Service providers must register with the Division of Vocational Rehabilitation (DVR). As a condition of registration, level 2 background screening pursuant to s. 435, F.S., must be conducted by DVR on certain individuals and rescreening of these individuals must occur every five years following the initial screening.<sup>14</sup>

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

**Section 1** amends s. 413.208, F.S., to allow a volunteer for a center for independent living, who assists on an intermittent basis for less than 10 hours per month to not be subject to the background screening pursuant to ch. 435, F.S., if a provider's employee is present and has the volunteer within line of sight.

**Section 2** amends s. 413.402, F.S., to rename the James Patrick Memorial Work Incentive Personal Attendant Services Program to the James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program. In addition to the provision of personal care attendants, other support and services necessary to maintain competitive employment or self-employment are available to eligible persons in the program.

This section establishes eligibility requirements for participation in the program. A person must be:

<sup>9</sup> Section 413.4021(1), F.S. The contract amount for each state attorney cannot exceed \$50,000.

<sup>10</sup> See [http://rehabworks.org/cil\\_map.shtml](http://rehabworks.org/cil_map.shtml) (last visited on March 30, 2015). A copy of the map is on filed with the Senate Committee on Children, Families, and Elder Affairs.

<sup>11</sup> Section 320.08068(2), F.S.

<sup>12</sup> Section 320.08069(4), F.S.

<sup>13</sup> Section 413.20(20), F.S.

<sup>14</sup> Section 413.208(1), F.S.

- At least 18 years of age, a legal resident of this state and significantly and chronically disabled.
- Determined by a physician, psychologist, or psychiatrist, to require a personal care attendant for at least two activities of daily living as defined in s. 429.02, F.S.
- Require a personal care attendant and may require other support and services to accept an offer of imminent employment, commence working or maintain competitive employment.

The Florida Association for Centers for Independent Living (FACIL) must provide training to program participants on the hiring and managing of a personal care attendant and other skills needed to effectively access and manage the support and services provided in the program.

**Section 3** amends s. 413.4021, F.S., to increase the amount available to contract with the state attorneys participating in the tax collection enforcement diversion program to not more than \$75,000 per state attorney.

**Section 4** amends s. 320.08068, F.S., to change the name of the entity receiving 20 percent of the funds distributed by the Able Trust to the James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program.

**Section 5** provides an effective date of July 1, 2015, for the bill.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None

C. Government Sector Impact:

PCS/CS/SB 1260 does not increase the funds raised through the Tax Collection Enforcement Diversion Program and the Motorcycle Specialty License Plate Program;

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

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

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 413.402, 413.208, 413.4021, and 320.08068.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**Recommended CS/CS by Appropriations Subcommittee on Education on April 8, 2015:**

The committee substitute removes the provision of the bill establishing an advisory group and reverts to current statute regarding an oversight group.

**CS by Children, Families, and Elder Affairs on April 2, 2015:**

- Allows a volunteer at a center for independent living to assist on an intermittent basis for less than 10 hours per month to not be background screened if a provider's employee is always present and the volunteer is within his or her line of sight.
- Provides that a person that is eligible for participation in the program must require a personal care attendant or other support services in order to accept an offer of imminent employment, commence working or maintain competitive employment.
- Increases the amount of funds available to contract with the state attorneys participating in the tax collection enforcement diversion program from \$50,000 to not more than \$75,000 for each state attorney.

- B. **Amendments:**

None.