

By Senator Burt

16-626A-98

1                                   A bill to be entitled  
2           An act relating to the Department of Elderly  
3           Affairs; amending s. 20.41, F.S.; providing  
4           findings; providing powers and duties; revising  
5           the responsibility of the area agencies'  
6           boards; providing for board membership;  
7           providing for the appointment of board  
8           executive directors; providing for audits and  
9           exemption from chapter 120, F.S.; establishing  
10          service areas for the department; providing for  
11          reviews and requiring a report to the  
12          Legislature; providing for the conversion of  
13          existing agencies; providing for the  
14          continuation of certain contracts; providing an  
15          effective date.

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

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19           Section 1. Legislative findings.--Based on demographic  
20 studies and documents, public comment and hearing testimony  
21 from elderly citizens, providers of services to the elderly,  
22 local units of government, and currently designated area  
23 agencies on aging, the Legislature finds that systemic  
24 restructuring, administrative streamlining, and financial  
25 management improvements are necessary to meet the ever-growing  
26 needs of older citizens. The Legislature also acknowledges the  
27 recommendations of the Long Term Care Commission that Florida  
28 should plan for long-term care in a unified, cooperative  
29 process to ensure that the state's long-term-care dollars are  
30 spent in the most appropriate and cost-effective mix of  
31 institutional, residential, and community services and that

1 integration of the acute and long-term-care systems is  
2 critical to its success. Further, the Legislature acknowledges  
3 that, during the past two decades, area agencies on aging have  
4 successfully performed a vital role in developing and  
5 coordinating home- and community-based services for older  
6 citizens and are well-positioned to assume a more central role  
7 in the management and coordination of long-term-care services  
8 and benefits. Therefore, a comprehensive, coordinated, and  
9 broader-based enhancement of the aging system's governance  
10 shall be established to include all aspects of planning,  
11 benefits, and services, both federal and state.

12 Section 2. Section 20.41, Florida Statutes, is amended  
13 to read:

14 20.41 Department of Elderly Affairs.--There is created  
15 a Department of Elderly Affairs.

16 (1) The head of the department is the Secretary of  
17 Elderly Affairs. The secretary must be appointed by the  
18 Governor, subject to confirmation by the Senate. The  
19 requirement for Senate confirmation applies to any person so  
20 appointed on or after July 1, 1994. The secretary serves at  
21 the pleasure of the Governor. The secretary shall administer  
22 the affairs of the department and may employ assistants,  
23 professional staff, and other employees as necessary to  
24 discharge the powers and duties of the department.

25 (2) In order to maximize funding for client services  
26 and increase administrative efficiency,the department shall  
27 plan and administer its programs and services primarily  
28 through contracts with area agencies on aging and with other  
29 public and private entities within planning and service areas  
30 as designated by the department.

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1           (3) The department shall maintain its headquarters in  
2 Tallahassee.

3           (4) The department shall administratively house the  
4 State Long-Term Care Ombudsman Council, created by s.  
5 400.0067, and the district long-term care ombudsman councils,  
6 created by s. 400.0069 and shall, as required by s. 712 of the  
7 federal Older Americans Act of 1965, ensure that both the  
8 state and district long-term care ombudsman councils operate  
9 in compliance with the Older Americans Act. The councils in  
10 performance of their duties shall not be subject to control,  
11 supervision, or direction by the department.

12           (5) The department shall be the state unit on aging as  
13 defined in the federal Older Americans Act of 1965, as  
14 amended, and shall exercise all responsibilities pursuant to  
15 that act.

16           (6) In accordance with the federal Older Americans Act  
17 of 1965, as amended, the department shall designate and  
18 contract with area agencies on aging in each of the  
19 department's planning and service areas. Area agencies on  
20 aging, pursuant to contracts with the department, shall ensure  
21 a coordinated and integrated provision of long-term care  
22 services to the elderly and shall ensure the provision of  
23 prevention and early intervention services. The contracted  
24 services may include services funded by the Older Americans  
25 Act or other federal or state aging and long-term-care  
26 programs to secure a comprehensive continuum of services. The  
27 department shall have overall responsibility for information  
28 system planning and functions. The department shall ensure,  
29 through the development of equipment, software, data, and  
30 connectivity standards, the ability to share and integrate  
31 information collected and reported by the area agencies or by

1 providers in support of their contracted obligations to the  
2 state.

3 (7) The department shall contract with the governing  
4 body, hereafter referred to as the "board," of an area agency  
5 on aging to fulfill programmatic and funding requirements.

6 The board shall:

7 (a) Be responsible for the overall direction of the  
8 area agency's programs and services; ~~and shall~~

9 (b) Ensure that the area agency is administered in  
10 accordance with the terms of its contract with the department,  
11 legal requirements, established agency policy, and effective  
12 management principles; ~~The board shall also~~

13 (c) Ensure the accountability of the agency to the  
14 local communities included in the planning and service area of  
15 the agency; ~~and~~

16 (d) Annually determine, within department parameters,  
17 the local county allocations of service funds within the  
18 planning and service area;

19 (e) Review and adjudicate service recipient and  
20 provider grievances and appeals of adverse decisions by  
21 providers;

22 (f) Review responsive bids and determine the  
23 successful bidder in area agency on aging requests for  
24 proposals;

25 (g) Conduct periodic evaluations of, and public  
26 hearings on, activities carried out under the area plan,  
27 including outreach activities; and

28 (h) Otherwise serve as an advisory body for the  
29 department in local issues relating to the needs of the  
30 elderly.

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1           (8)(a) Effective January 1, 2001, the board of the  
2 area agencies shall consist of members from within the  
3 planning and service area, as follows: one member appointed by  
4 the Governor from a list of nominees submitted by the  
5 secretary, one member appointed by the President of the  
6 Senate, one member appointed by the Speaker of the House of  
7 Representatives, one member appointed by the area agency on  
8 aging board for each county within the planning and service  
9 area, and additional members provided for the more populous  
10 counties pursuant to subsection (11), appointed by the  
11 respective county commissions. The board of directors may  
12 appoint up to six at-large members. Preference in the initial  
13 board appointments should be given to individuals having past  
14 experience as members of area agency on aging boards. Board  
15 members appointed by the area agency on aging boards and  
16 gubernatorial appointments shall serve 3-year terms, the  
17 legislative appointees shall serve 2-year terms, and the board  
18 of directors appointees shall serve 1-year terms. Board  
19 members may be reappointed and serve multiple terms not to  
20 exceed a total of 8 years.

21           (b) Nominations for appointment shall be solicited  
22 from a broad cross-section of the public, private, and  
23 volunteer sectors of each county in the respective planning  
24 and service area to ensure balanced age, minority, and gender  
25 representation. Each area agency on aging board shall elect a  
26 nominating committee to solicit, evaluate, and present  
27 nominations to fill board vacancies. The following standards  
28 apply to the solicitation of individuals to fill vacant board  
29 seats:

30           1. Announcements of vacancies must be published in the  
31 legal section of the newspaper of greatest circulation in the

1 county where the board seat is located, soliciting interested  
2 individuals to apply;

3 2. The nominating committee must provide written  
4 notification of the vacancy to the chairperson of the county  
5 board of commissioners requesting the county board to  
6 recommend an individual to fill the vacant seat; and

7 3. The nominating committee must notify units of local  
8 general purpose government and other interested entities  
9 regarding vacancies on the board, as it deems appropriate.

10 (9)(8) The area agency on aging board shall, in  
11 consultation with and approval by the secretary, appoint a  
12 chief executive officer, hereafter referred to as the  
13 "executive director," to whom shall be delegated  
14 responsibility for agency management and for implementation of  
15 board policy, and who shall be accountable for the agency's  
16 performance. The Secretary of Elderly Affairs shall  
17 participate in the annual evaluations of the executive  
18 director.

19 (10) Applications; enforcement; audits; exemption from  
20 chapter 120.--The boards of the area agencies on aging are  
21 subject to the public records and public meetings provisions  
22 of chapters 119 and 286, respectively; to rules adopted by the  
23 department which affect service delivery and grievance  
24 procedures; and to all terms specified by contract with the  
25 department. The department shall continue by contract to  
26 require area agencies on aging to submit to independent audits  
27 and to file such audits with the department. To the extent,  
28 provided by contract with the department, area agencies on  
29 aging, their subcontractors, and other provider vendors of the  
30 department are exempt from the provisions of chapters 112,

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1 120, and 287 to assure quality and to promote economies and  
2 efficiencies in the privatization of services to the elderly.

3 (11) The department shall plan and administer its  
4 programs through planning and service areas composed of the  
5 following counties. Each board shall include at least one  
6 member per county except as provided below:

7 (a) Area 1: Escambia County (2 board members); Santa  
8 Rosa County; Okaloosa County; Walton County; Holmes County;  
9 Washington County; Bay County; Jackson County; Calhoun County;  
10 Gulf County; Gadsden County; Liberty County; Wakulla County;  
11 and Franklin County.

12 (b) Area 2: Leon County; Jefferson County; Madison  
13 County; Taylor County; Hamilton County; Suwannee County;  
14 Lafayette County; Dixie County; Columbia County; Gilchrist  
15 County; Levy County; Sumpter County; Citrus County (2 board  
16 members); Lake County (2 board members); Marion County (2  
17 board members); and Alachua County.

18 (c) Area 3: Baker County; Nassau County; Duval County  
19 (3 board members); Clay County; Putnam County; St. Johns  
20 County; Flagler County; Union County; Bradford County; and  
21 Volusia County (3 board members).

22 (d) Area 4: Hernando County; Pasco County (3 board  
23 members); Pinellas County (5 board members); and Hillsborough  
24 County (4 board members).

25 (e) Area 5: Okeechobee County; St. Lucie County;  
26 Seminole County (2 board members); Orange County (3 board  
27 members); Polk County (3 board members); Osceola County;  
28 Brevard County (3 board members); and Indian River County.

29 (f) Area 6: Manatee County (2 board members); Hardee  
30 County; Highlands County; Sarasota County (3 board members);  
31 DeSoto County; Charlotte County (2 board members); Lee County

1 (3 board members); Collier County (2 board members); Glades  
2 County; and Hendry County.

3 (g) Area 7: Martin County (2 board members); Palm  
4 Beach County (5 board members); and Broward County (6 board  
5 members).

6 (h) Area 8: Monroe County; and Dade County (7 board  
7 members).

8 Section 3. Savings achieved from the reduction in the  
9 number of planning and service areas shall be used for client  
10 services. Until July 1, 2000, the program funding level may  
11 not be reduced below the 1997-1998 level for any county unless  
12 there is a statewide funding reduction or the department  
13 concludes that, because of a significant change in  
14 circumstances, fairness requires county funding adjustments.

15 Section 4. (1) Where the department deems feasible,  
16 the current area agencies on aging may convert or revise their  
17 present organizations in order to meet the requirements of  
18 this act. Where planning and service area realignments create  
19 conflicts, the department shall assist in resolving such  
20 conflicts.

21 (2) All departmental and provider contracts with  
22 currently designated area agencies on aging may be extended  
23 through December 31, 1998.

24 (3) All current area agency on aging board members  
25 shall continue as members according to their county of  
26 residence within the planning and service areas through  
27 December 31, 2000, unless such members request appointment  
28 pursuant to section 20.41(8), Florida Statutes.

29 Section 5. This act shall take effect October 1, 1998.  
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SENATE SUMMARY

Revises provisions relating to the organization and duties of area agencies within the Department of Elderly Affairs. Establishes area agencies on aging; establishes the composition, powers, and duties of the governing boards of such agencies. Exempts such boards from the provisions of ch. 120, F.S., and divides the state into 8 service areas. Provides for review by the department and requires a report to the Legislature.