

STORAGE NAME: h1745a.ca

DATE: April 21, 1999

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
COMMUNITY AFFAIRS
ANALYSIS**

BILL #: HB 1745

RELATING TO: Serving People Who Have Disabilities

SPONSOR(S): Representative Wiles & others

COMPANION BILL(S): CS/SB 1900 (s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) ELDER AFFAIRS & LONG TERM CARE (HFC) YEAS 9 NAYS 0
 - (2) COMMUNITY AFFAIRS (PRC) YEAS 8 NAYS 0
 - (3) GOVERNMENTAL OPERATIONS (PRC)
 - (4) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS (FRC)
 - (5)
-

I. SUMMARY:

The bill creates the Office of Disability Coordination (ODC) within the Executive Office of the Governor. The bill requires the ODC to establish an advisory board that is comprised of the heads of all state agencies. Such agencies must have responsibility for, or involvement with, persons with mental, physical, or developmental disabilities.

The bill lists the duties of the ODC. The ODC must submit a report, due by December 1, 2000, and every year thereafter, that documents the progress of the ODC in carrying out its duties as specified in this bill. Further, the Office of Program Policy Analysis and Governmental Accountability is required to conduct a comprehensive review of the ODC and make a recommendation concerning the need to continue or discontinue the office.

The bill includes an appropriation from the General Revenue Fund for FY 1999-2000 for \$250,000 for start-up expenses and \$350,000 for operating expenses.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Section 14.021, F.S., creates the Executive Office of the Governor (EOG) and provides that the Governor is the head of the office.

Section 20.052 (4), F.S., provides statutory requirements for an advisory board or other similar group. Specifically, it provides:

An advisory body, commission, board of trustees, and other collegial body may not be created or reestablished unless:

- (a) It meets a statutorily defined purpose;
- (b) Its powers and responsibilities conform with the definitions for governmental units in s. 20.03;
- (c) Its members, unless expressly provided otherwise in the State Constitution, are appointed for 4-year staggered terms; and
- (d) 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 s. 112.061.

Currently, the statutes provide for the following Commissions in the EOG:

- 14.202 Administration Commission.
- 14.203 State Council on Competitive Government.
- 14.22 Florida Governor's Council on Physical Fitness and Amateur Sports; Sunshine State Games; national and international amateur athletic competitions and Olympic development centers; direct-support organizations; Olympics and Pan American Games Task Force.
- 14.23 State-Federal relations.
- 14.24 Florida Commission on the Status of Women.
- 14.25 Florida State Commission on Hispanic Affairs.
- 14.26 Citizen's Assistance Office.
- 14.27 Florida Commission on African-American Affairs.
- 14.28 Executive clemency.
- 14.29 Florida Commission on Community Service.
- 14.32 Office of the Chief Inspector General

Several agencies within Florida's governmental structure have statutory responsibility for providing services to persons with disabilities. Section 20.19, F.S., 1998 Supplement, provides that the Department of Children and Family Services (DCF) serves persons with certain disabilities. The Developmental Services Program is assigned specifically to serve persons with a developmental disability as defined in s. 393.063, F.S., which includes 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.

The Alcohol, Drug Abuse, and Mental Health program in the DCF serves persons with a mental illness as defined in chapter 394, F.S., or with a substance abuse impairment as defined in chapter 397, F.S.

A program office is established for each program that is responsible for establishing program standards and performance objectives; reviewing, monitoring, and ensuring compliance with statewide standards and performance measures; assuring that programs are implemented according to Legislative intent and as provided in state and federal laws, rules, and regulations; developing and coordinating training for service programs; coordinating program research; identifying statewide program needs and recommending solutions and priorities; developing resource allocation methodologies; and compiling reports, analyses, and assessment of client needs on a statewide basis.

Section 20.19, F.S., 1998 Supplement, also includes provisions for outcome evaluation and program effectiveness and provides for the Secretary of DCF (with input from the district administrators and

the district health and human services boards) to develop a legislative budget request in accordance with s. 216.023, F.S.

Other departments under the executive branch of government involved in providing services to persons with disabilities include the Agency for Health Care Administration, Department of Elderly Affairs, Department of Labor and Employment Security, Department of Corrections, Department of Health, Department of Juvenile Justice, Department of Education, and Department of Veterans Affairs. For example, the Agency for Health Care Administration administers the Medicaid program that provides reimbursement to providers of medical and related services to persons with disabilities and conducts various licensing and regulatory functions for facilities and programs serving this population. The Department of Labor and Employment Security provides employment or workforce assistance to persons with disabilities. The Department of Elderly Affairs coordinates community-based services to many elderly persons who have physical or mental disabilities.

The cabinet agency with some direct responsibility for serving persons with disabilities is the Department of Education. The "Commissioner of Education" is the head of the Department of Education. The commissioner is an elected officer pursuant to s. 5, Art. IV of the Florida Constitution. The State Board of Education is created in section 20.15, F.S. In accordance with s. 2, Art. IX of the Florida Constitution, the State Board of Education is the chief policy making body of public education in the state as specified in chapter 229. The Governor is chair of the board, and the Commissioner of Education is the secretary and executive officer and in the absence of the Governor shall serve as chair.

Section 236.0812, F.S. provides for public schools to certify certain funds as matching money to participate in the state/federal Medicaid program for "school-based services." These include: physical, occupational, and speech therapy services, behavioral health services, mental health services, transportation services, Early Periodic Screening, Diagnosis, and Treatment (EPSDT or child health services), administrative outreach for the purpose of determining eligibility for exceptional student education, and other such services necessary to receive federal Medicaid financial participation.

Section 411.222, F.S., created the Office of Prevention, Early Assistance, and Child Development. The Department of Education was designated as the lead agency for administration of part H of Pub. L. No. 99-457, related to services for disabled children of school age.

B. EFFECT OF PROPOSED CHANGES:

The bill creates the Office of Disability Coordination (ODC) within the Executive Office of the Governor and includes provisions for an executive director and an advisory board. The advisory board is comprised of the heads of each of the following departments: Children and Family Services, Juvenile Justice, Corrections, Veterans Affairs, Elderly Affairs, Labor and Employment Security, and Health; Education; and the Agency for Health Care Administration.

If any agency head ceases to be an officer of the agency, the bill specifies that the agency deputy or the newly appointed agency head would fill the vacancy. The bill states that the Office of the Governor would provide staff which may come from the agencies represented on the advisory board to provide either part-time or full-time support and services to the ODC.

As provided by the bill, the ODC must work with **"all entities"** that deal with people who, "have disabilities, physical or mental impairments that substantially limit one or more major life activities, who have a record of such impairments, or who are regarded as having such impairments."

Responsibilities of the ODC include functions such as collecting specified information on persons being served and persons waiting for services; consolidating, coordinating, and reducing regulatory functions; maximizing federal funding; collecting and disseminating budget information; coordinating outcomes and accountability measures; coordinating the implementation of state and federal policies; and convening agencies that serve people with disabilities to review agencies' missions, services, activities, and funding capabilities.

The bill directs the ODC to compile, maintain, and disseminate information concerning met and unmet needs of persons with disabilities, names of providers that serve this population, costs of

services, and the availability of services. The bill specifies that the ODC must not maintain or duplicate data currently maintained by **“any other entity.”**

The bill provides that the ODC serves as a clearinghouse for legislative budget requests and proposed policy changes. Section 216.023, F.S., states that the head of each state agency must submit a final budget request to the Legislature and Governor based on the agency’s independent judgment of its needs and consistent with prescribed budget instructions. The bill does not amend s. 216.023, F.S., to include the ODC in this prescribed process.

The bill provides that the ODC coordinates outcomes and accountability measures. Also, the bill specifies that the ODC produce an annual report by December 1, 2000, and on that date every year thereafter, electronically or in writing, to the EOG, President of the Senate, the Speaker of the House of Representatives, and other interested parties upon request. The report documents the progress made by the ODC toward completing their responsibilities as specified in this bill, includes a description of the barriers preventing full collaboration among entities that serve people with disabilities, and makes recommendations on how to better serve persons with disabilities.

The bill specifies that before the 2001 Legislative Session, the Office of Program Policy Analysis and Governmental Accountability must conduct a comprehensive review of the ODC on their progress toward achieving their established outcomes. The review addresses whether or not it might be sound public policy to continue the ODC and the consequences of discontinuing it.

The authority of the ODC is limited. Its only real mechanism for change is to notify the Governor and the Legislature of an agency’s noncompliance with its duties and the Governor may disqualify or suspend a noncompliant agency’s ability to receive grants, awards, or funding. However, such action may serve to disadvantage the same people that the provisions of this bill is helping.

The ODC’s mission to stimulate coordination of services among the state agencies may be achieved more easily if the ODC were strictly advisory. Also an advisory group may be of more value and able to provide better information to the Governor and the Legislature if the group included high functioning consumers of the agencies’ services, family members of consumers, and contracted providers.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No. Rule making authority is not provided; however, the advisory board is to coordinate budget requests.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes. The Departments of Children & Family Services, Corrections, Elder Affairs, Health, Juvenile Justice, Labor & Employment Security, Education, and Veteran’s Affairs, and the Agency for Health Care Administration are all required to have the agency head serve on the advisory board and to assign staff to the working group. The Governor may assign other staff from the listed agencies to provide support to the ODC.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

No agency or program is eliminated or reduced.

(2) what is the cost of such responsibility at the new level/agency?

No agency or program is eliminated or reduced.

(3) how is the new agency accountable to the people governed?

No agency or program is eliminated or reduced.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Creates section 14.175, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Creates s. 14.275, F.S., the "Office of Disability Coordination" (ODC) in the Executive Office of the Governor.

Membership on the Advisory Board & Working Group

The ODC establishes an advisory board that includes the Secretary or Director of the Executive Agencies related to health, children and family services, labor, Veterans Affairs, corrections, juvenile justice and elder affairs. The Commissioner of Education is also a member. Advisory board members are required to appoint staff persons from their respective departments to serve as a

“working group” for the board. If a member ceases to be an officer of the agency that he or she represents, the member must resign immediately and the new agency head or deputy will fill the vacancy.

Employees of the Office and Advisory Board

The advisory board is directed to employ an executive director (ED). The ED is required to hire a person with expertise in information management systems. Both the ED and the information management systems person serve at the pleasure of the advisory board. Further, the ED is permitted to hire additional professional, technical, legal, or clerical staff as needed. The ED is also permitted to hire consultants and enter into contracts on behalf of the board.

This section provides that the Office of the Governor shall provide staff to the ODC. The Governor's office is granted authority to assign staff from the agencies represented on the advisory board to work full-time or part-time as determined by the advisory board's needs.

Benefits and Office Space and Equipment

The staff of the ODC are to be governed by the same rules that govern legislative personnel and receive the same rights and benefits including membership in the Florida Retirement System. The Office of Legislative Services is directed to assist the ODC to obtain office space and equipment.

Meetings

Monthly meetings are required for the workgroup. The advisory board must meet at least four times per year, but the chairperson may call meetings as often as necessary.

Responsibilities of the Office of Disability Coordination

The ODC must work with “all entities” that deal with persons who have disabilities, physical or mental impairments that substantially limit one or more major life activities, a record of such impairments, or are regarded as having such impairments.

The ODC is directed to collect and provide information about persons who are being served and those persons who are on a waiting list for services. Further the ODC is directed to:

- ▶ Streamline intake for clients
- ▶ Consolidate, coordinate, and reduce regulatory functions
- ▶ Eliminate duplication in services
- ▶ Maximize federal funding
- ▶ Collect and disseminate information relating to budget items that are requested by “entities” on behalf of persons with disabilities
- ▶ Coordinate outcomes and accountability measures
- ▶ Coordinate implementation of state and federal policies
- ▶ Serve as clearinghouse for legislative requests for funding and proposed policy changes
- ▶ Periodically convene “agencies that serve people who have disabilities” to review their missions, services, activities and “funding capabilities.”
- ▶ Encourage research on the effectiveness of programs and pilot projects to improve the services of “member agencies.”
- ▶ Identify areas in which needed services are not being provided
- ▶ Identify groups of people who have disabilities who either are not being served or are not being served adequately

Data

All “entities” that serve persons with disabilities must give the ODC direct access to their data on persons with disabilities by October 1, 1999. The Office is directed not to maintain or duplicate data currently maintained by any other entity.

The ODC is directed to make all the information they have gathered available to interested parties. However, the ODC is prohibited from making public any information that could identify an individual.

The ODC is required to assure that the purpose of obtaining the data is to evaluate and improve programs in all areas that serve people who have disabilities.

Notifying the Governor of Failure

The ODC is permitted to notify the Governor and the Legislature of any agency's non-compliance with its duties under this section. The Governor is permitted to disqualify or suspend a non-compliant agency's ability to receive grants, awards, or funding.

Reports

By December 1, 2000, and each December 1 thereafter, the ODC must produce a report that documents the progress the advisory board has made. Each member is required to submit information related to his or her agency. The report must also describe:

- ▶ Barriers that prevent full collaboration among entities that serve persons with disabilities;
- ▶ Recommendations as to what measures are required to achieve full coordination of services to persons with disabilities; and
- ▶ Ways to serve people with disabilities better.

The report must be sent to the Governor, the President of the Senate, the Speaker of the House of Representatives and to other interested parties.

Office of Program Policy Analysis and Governmental Accountability (OPPAGA)

Before the 2001 Regular Session of the Legislature, OPPAGA must review and report on the ODC. The bill lists the minimum information that must be assessed and reported on.

Section 2. Appropriates \$250,000 to the EOG for fiscal year 1999-2000 to be used for start-up expenses including hardware, software, and equipment. \$350,000 is appropriated for the operation of the Office, including, but not limited, to salaries, benefits, and travel expenses.

Section 3. Provides that this act takes effect on July 1, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

\$250,000 is appropriated for costs associated with start-up.

OPPAGA is required to study the ODC and prepare a report. The costs associated with an OPPAGA study are attributed to the studied agency or agencies. The cost of the required study are not available at this time.

2. Recurring Effects:

\$350,000 is appropriated for fiscal year 1999-2000 for costs that are operational. These costs will continue as long as the ODC remains in effect.

3. Long Run Effects Other Than Normal Growth:

None are projected at this time.

4. Total Revenues and Expenditures:

\$600,000 is appropriated in the bill for fiscal year 1999-2000.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None are projected.

2. Recurring Effects:

None are projected.

3. Long Run Effects Other Than Normal Growth:

None are projected.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Not applicable.

2. Direct Private Sector Benefits:

Not applicable.

3. Effects on Competition, Private Enterprise and Employment Markets:

Not applicable.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require cities or counties to spend money or take action that requires expenditure of money.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce revenue raising authority.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the state tax shared with cities and counties.

V. COMMENTS:

The responsibilities of the ODC seem to be duplicative of the statutory duties of the DCF as they relate to services for persons with developmental disabilities, persons with mental illness, adults with disabilities, and persons with a substance abuse impairment.

Page 3, line 23 provides that "staff" of the office must be governed by certain rules and have certain benefits. Because staff from the executive and cabinet agencies represented on the board are also to be assigned to work for the ODC, it may be helpful to clarify that this refers only to personnel hired by the advisory board or by the ED.

Page 3, lines 28-30 provides that the Office of Legislative Services will assist the ODC in obtaining equipment and office space. The Office of Legislative Services raised a concern about this and about the provision (page 3, lines 23-27) that makes the staff of the ODC subject to Legislative personnel rules and benefits. The Office of Legislative Services suggested that they do not provide support to the executive branch.

Page 4, line 2, specifies that the ODC will work with "all entities." This could include insurance companies, hospitals, nursing homes, rehabilitation facilities, the federal Social Security Administration and others. Because the bill seems to be directing the ODC to work with the state agencies delineated in section 1 of the bill, it may be clarifying here to specify if "all entities" includes groups other than the executive and cabinet agencies specified in section 1 of the bill.

Page 4, line 24, specifies that the OCD will periodically convene "agencies that serve people who have disabilities." It might be interpreted that it is intended to include only those public agencies that were delineated in section 1 of the bill or it might possibly be taken to mean any and all agencies that serve persons with disabilities.

Page 5, line 11 requires that "all entities" give direct access to their data to the ODC. There might be some lack of clarity about what groups are anticipated to be a part of "all entities."

The bill specifies that the ODC coordinates outcomes and accountability measures, but there is no provision to clarify their role in the performance based program budgeting process contained in s. 216.0166, F.S.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 5, 1999, the House Committee on Elder Affairs & Long-Term Care adopted the following amendments to:

1. Specify that the staff employed by the ODC will be subject to the same rules as personnel of the Executive Office of the Governor, *not* Legislative rules;
2. Specify that the Department of Management Services (DMS) assists the office in obtaining office space and equipment, *not* the Office of Legislative Services;
3. Specify that the ODC *may* instead of *must* consult with entities that deal with people who have disabilities and removed the requirement that ODC consult with *all* such entities;
4. Specify that the Office may convene the agencies identified as members of the advisory board to review missions, services, and funding;
5. Specify that the member agencies must share data with the ODC;
6. Specify that the ODC must *review*, not serve as a "clearinghouse" for legislative funding and policy changes; and
7. Specify that the ODC must evaluate outcomes, accountability measures and make programmatic recommendations to member agencies.

VII. SIGNATURES:

COMMITTEE ON Elder Affairs & Long Term Care:

Prepared by:

Melanie Meyer

Staff Director:

Tom Batchelor, Ph.D.

STORAGE NAME: h1745a.ca
DATE: April 21, 1999
PAGE 11

AS REVISED BY THE COMMITTEE ON COMMUNITY AFFAIRS:
Prepared by: Staff Director:

Nayola R. Frazier

Joan Highsmith-Smith