

STORAGE NAME: h0521a.hcs

DATE: March 18, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
HEALTH CARE SERVICES
ANALYSIS**

BILL #: HB 521

RELATING TO: The Florida Independent Living Council

SPONSOR(S): Rep. Casey

COMPANION BILL(S): SB 114 (i)

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

(1) HEALTH CARE SERVICES YEAS 13 NAYS 0

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I. SUMMARY:

HB 521 establishes the Florida Independent Living Council as a not-for-profit corporation. The change complies with the Federal Rehabilitation Act of 1973, as amended, which states that Independent Living Councils shall not be entities within a state agency. The board membership for the corporation would include the appointed members of the council.

The bill also modifies the composition of council membership to a minimum of 14 members, allowing the council the option to add additional members, as necessary.

This bill does not appear to have a fiscal impact on state or local government.

The bill provides an effective date of July 1, 1999.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The Florida Independent Living Council is responsible for assisting the Division of Vocational Rehabilitation and the Division of Blind Services in the expansion and development of statewide independent living policies, programs, and concepts to recommend improvements for such programs and services. The council jointly develops and submits the state plan for independent living. Additionally, the council monitors and evaluates implementation of the state plan.

In order to receive federal financial assistance under Section 705 of the Rehabilitation Act of 1973, as amended, each state is required to establish a Statewide Independent Living Council. The federal rules further delineate that the council cannot be established as an entity within a state agency.

Currently, section 413.395, F.S., assigns the Florida Independent Living Council to the Division of Vocational Rehabilitation for administrative purposes. The statute also distinguishes that the council will function independently of the division to ensure consistency with the provisions expressed in federal law. However, according to the Florida Attorney General Advisory Legal Opinion, AGO 96-77, s. 413.395, F.S., creates the council as a part of the executive branch of state government. Further, according to AGO 96-77: "The council has no inherent authority but rather possesses only those powers that have been expressly granted by statute or are necessarily implied to carry out an expressly granted power".

There is no provision that would authorize the council to change its status to that of a not-for-profit corporation, therefore legislative approval is required to differentiate the Florida Independent Living Council from state government.

Presently, council membership is set to a maximum of 14 persons. This standard conforms with requirements stated in federal law but does not allow for an increase in board membership if particular needs are not being represented within the council.

B. EFFECT OF PROPOSED CHANGES:

According to AGO 96-77: "If the Legislature were to authorize the reorganization of the council as a not-for-profit corporation, the relationship between the department and council, including funding by the department, would be governed by the terms of the legislation permitting such reorganization".

Thus, distinguishing the Florida Independent Living Council as a not-for-profit entity would enable the council to perform their duties and functions as prescribed in Section 705 of the Rehabilitation Act of 1973, as amended. The council would truly become independent of the Division of Vocational Rehabilitation and the executive branch of government.

The board of directors for the corporation will be comprised of the appointed members on the council.

Additionally, the council membership will include a minimum of 14 members, allow the council discretion to add members as the need arises.

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.

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

No.

(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?

N/A

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

N/A

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

N/A

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?

Yes. The bill authorizes the Florida Independent Council to incorporate as a not-for-profit corporation, thus directly increasing the allowable options to conduct council affairs.

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

No.

5. Family Empowerment:

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

This bill does not purport to change or create a program for providing 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?

No.

- 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:

This bill does not create or change a program providing services to families or children.

- (1) parents and guardians?

N/A

- (2) service providers?

N/A

(3) government employees/agencies?

N/A

B. STATUTE(S) AFFECTED:

Amends s. 413.395, F.S.

C. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 413.395, F.S., to allow the Florida Independent Living Council to incorporate as a not-for-profit entity and authorizes the appointed members of the council to constitute the board of directors of the corporation. The bill also changes the membership composition from a maximum of 14 members to a minimum of 14 members.

Section 2. Provides an effective date of July 1, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

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

None.

D. FISCAL COMMENTS:

According to the Department of Labor and Employment Security, Division of Vocational Rehabilitation, there are no additional costs imposed on state and local government or on the private sector.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority that municipalities or counties have to raise revenues.

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

The bill does not reduce the authority that municipalities or counties have to raise revenues.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 18, 1999, the Committee on Health Care Services passed one amendment offered by Representative Casey. This is found on Page 1, Line 26, to clarify the assignment of the Florida Independent Living Council to the Division of Vocational Rehabilitation for administrative purposes shall not apply if the council incorporates as a not-for-profit.

VII. SIGNATURES:

COMMITTEE ON HEALTH CARE SERVICES:

Prepared by:

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