

STORAGE NAME: h0011a.ca

DATE: April 19, 2000

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

BILL #: HB 11

RELATING TO: Disabilities

SPONSOR(S): Representative Wiles & others

TIED BILL(S): SB 272

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

- (1) ELDER AFFAIRS & LONG TERM CARE (HFC) YEAS 11 NAYS 0
 - (2) COMMUNITY AFFAIRS (PRC) YEAS 7 NAYS 0
 - (3) GOVERNMENTAL OPERATIONS (PRC)
 - (4) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS (FRC)
 - (5)
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I. SUMMARY:

This bill creates the Office of Disability Coordination (Office) within the Executive Office of the Governor. An advisory board is specified that consists of the heads of all state agencies that have responsibility for, or involvement with, persons with mental, physical, or developmental disabilities. The bill specifies the duties of the Office of Disability Coordination. A report is due by December 1, 2001, and every year thereafter that documents the progress of the Office of Disability Coordination in carrying out its duties as specified in this bill. The Office of Program Policy Analysis and Governmental Accountability is required to conduct a comprehensive review of the Office of Disability Coordination 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 2000-2001 for \$250,000 for start-up expenses and \$350,000 for operating expenses.

The bill takes effect July 1, 2000.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

1. Less Government: The Departments of Children & Family Services, Corrections, Elder Affairs, Health, Juvenile Justice, Labor & Employment Security, and Veteran's Affairs, the Agency for Health Care Administration, and the Commissioner of Education 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 Office.

B. PRESENT SITUATION:

Section 14.201, F.S., creates the Executive Office of the Governor and provides that the Governor shall be the head of the office. Section 20.052, F.S., (4) 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.

Several agencies within Florida's governmental structure have statutory responsibility for providing services to persons with disabilities. Section 20.19, F.S., provides that the Department of Children and Family Services (DCFS) serves persons with certain disabilities.

In DCFS, 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.

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 Health, 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 Department of Health in both its public health efforts and through the Children's Medical Services program is responsible for services to persons with 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 State Constitution. The State Board of Education is created in section 20.15, F.S. In accordance with s. 2, Art. IX of the State 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 serves 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.

C. EFFECT OF PROPOSED CHANGES:

This bill creates the Office of Disability Coordination (Office) within the Executive Office of the Governor. The Office is authorized to hire an executive director and other staff. In addition, the Governor may assign employees from EOG or from the agencies represented on the advisory board to provide either part-time or full-time support and services to the Office of Disability Coordination.

The advisory board consists of the Secretary of each of the executive branch agencies that serve persons with disabilities and the Commissioner of Education.

The authority of the Office of Disability Coordination 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.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Section 1 creates section 14.275, F.S., the "Office of Disability Coordination" (Office) in the Executive Office of the Governor.

Membership on the Advisory Board & Working Group

An advisory board is established to include the Secretaries of the Departments of Children & Family Services, Corrections, Elder Affairs, Juvenile Justice, Health, Labor & Employment Security, Director of the Agency for Health Care Administration, and Veterans Affairs. The Commissioner of Education would also be 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 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 Office. 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 Office is to be governed by the same rules that govern personnel in the Executive Office of the Governor and receive the same rights and benefits including membership in the Florida Retirement System. The Department of Management Services (DMS) is directed to assist the Office to obtain office space and equipment.

Officers and Meetings of the Advisory Board

The Advisory Board elects from among its members a chair and a vice-chair for one year terms and they may be reelected. 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 Office may consult with “all entities” that deal with persons who have disabilities, who have physical or mental impairments that substantially limit one or more major life activities, or who have a record of such impairments, or who are regarded as having such impairments.

The Office 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 Office is directed to:

- Collect and provide information concerning individuals who are being served, those who are on “wait lists,” and demographic information about persons who have disabilities;
- 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;
- Evaluate outcomes and accountability measures;
- Coordinate implementation of state and federal policies;
- Review requests for legislative funding and proposed policy changes;
- Periodically convene the agencies represented on the advisory board 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 Office direct access to their data on persons with disabilities by October 1, 2000. The Office is directed not to maintain or duplicate data currently maintained by any other entity.

The Office is directed to make all the information they have gathered available to interested parties. However, the Office is prohibited from making public any information that could identify an individual. The Office 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 Office 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, 2001, and each December 1 thereafter, the Office 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;
- How to serve people with disabilities better.

The report must be sent, electronically or in writing, 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 2002 Regular Session of the Legislature, OPPAGA must review and report on the Office. The bill lists the minimum information that must be assessed and reported on.

Section 2. This section appropriates \$250,000 to the EOG for fiscal year 2000-2001 to be used for start-up expenses including hardware, software, and equipment. An additional \$350,000 is appropriated for the operation of the Office including but not limited to salaries, benefits, travel expenses.

Section 3. This act shall take effect on July 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill provides for an appropriation of \$600,000.

2. Expenditures:

It is anticipated that the Office would expend the \$250,000 for equipment and start up costs, if it were available. It is impossible to predict what the operating costs of the Office would be.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill has no impact on local government revenues.

2. Expenditures:

This bill has no impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

No direct economic impact is projected.

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 counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

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

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

No rule making authority is provided.

C. OTHER COMMENTS:

Disqualification or Suspension of Authority to Receive Grants, Awards, Funding

Section 14.275(2)(e), F.S., as created in this bill, provides that the Office of Disability Coordination may 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. The bill does not limit this authority to any specific type of "funding" and does not specify what procedure the Governor is to use to disqualify or suspend a noncompliant agency's ability to receive funding.

Section 216.195, F.S., provides that the Executive Office of the Governor, the Chief Justice of the Supreme Court, any member of the Cabinet, the Administration Commission, or any state agency shall not impound any appropriation except as necessary to avoid or eliminate a deficit pursuant to the provisions of s. 216.221, F.S. The section further provides that the provisions of this section are subject to the notice and review procedures of s. 216.177, F.S., and allows the Governor or either house of the Legislature to seek judicial review of any action or proposed action which violates the provisions of this section. Section 216.011, F.S., defines "impoundment" to mean:

the omission of any appropriation or part of an appropriation in the approved operating plan prepared pursuant to the provisions of s. 216.181 or in the schedule of releases prepared pursuant to the provisions of s. 216.192 or the failure of any state agency or the judicial branch to spend an appropriation for the stated purposes authorized in the approved operating budget.

Composition of Advisory Committee

Some people have suggested that 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.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None

VII. SIGNATURES:

COMMITTEE ON Elder Affairs & Long Term Care:

Prepared by:

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