

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 1222

SPONSOR: Senator McKay

SUBJECT: Availability and Affordability of Long-term Care

DATE: February 21, 2000 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Liem</u>	<u>Wilson</u>	<u>HC</u>	<u>Favorable</u>
2.	_____	_____	<u>FP</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

Senate Bill 1222 creates the Task Force on the Availability and Affordability of Long-term Care. The bill describes subject matter the task force is to consider, defines the membership of the task force, describes the manner in which the task force is to conduct its business, provides for administrative functions of the task force, establishes a time requirement for appointment of members of the task force and an initial meeting, requires a report, provides an appropriation for the task force, and provides an effective date.

The bill creates an undesignated section of law.

## II. Present Situation:

### Florida's Elderly Population

Florida's elderly population of 3.5 million people represents more than 20 percent of the state's residents. "Baby boomers" will add one million to that number when they start retiring in 2010. While the majority of Florida's elders live independent and healthy lives, the number of frail elderly in need of long-term care services is expected to increase by 42 percent over the next ten years.

To address this issue the Legislature in 1994 formed the Commission on Long-term Care, chaired by former Senator Kurt Kiser. The Commission developed recommendations for long-term care system reform, to be implemented by the Department of Elder Affairs, the Agency for Health Care Administration and the Department of Children and Family Services. The Commission made its final report in December, 1995.

The Commission's primary recommendation was that the state should begin planning to meet its residents' long-term care needs in order to ensure that the state's long-term care dollars are spent on the most appropriate and cost-effective mix of institutional, residential and community

services. The report also recommended the development of alternative systems of care, including transitioning the state's long-term care delivery system from an institutional to a community and risk-based managed care model integrating acute and long-term care services by the year 2000, establishing a long-term care planning and coordination advisory board within the Department of Elder Affairs, reducing the regulatory burden on long-term care providers, and encouraging the purchase of long-term care insurance. Many of the Commission's recommendations were adopted in statute by the 1997 Legislature at ss. 430.703-430.710, F.S. An interagency long-term care advisory council made up of state agency and long-term care industry members, charged with making recommendations regarding long-term care matters, was created by s. 430.710, F.S. The Department of Elder Affairs reports that this group is no longer meeting.

### **Certificate of Need**

A certificate of need (CON) is a statement issued by the Agency for Health Care Administration (agency) evidencing community need for a new, converted, expanded or otherwise significantly modified health care facility, health service, or hospice. The purpose of the CON process is to avoid duplication of services and unnecessary capital expenditures as it relates to hospitals, nursing homes, acute care hospital services, psychiatric or rehabilitative beds, and tertiary health services. The CON review process, as it pertains to nursing homes, allows construction of additional nursing home beds when there is a need demonstrated for such construction based on a region's elder demographics and occupancy rate for existing facilities. The agency is required, under s. 408.034, F.S, to establish by rule a nursing home bed need methodology which reduces the community nursing home bed need in areas of the state where the agency establishes pilot community diversion projects under the Medicaid aging waiver program.

### **Assisted Living Facilities**

Florida has experienced steady growth in assisted living facility beds. Between 1995 and January, 2000, the number of assisted living facilities rose by 26% to 2,350. The total number of beds in assisted living facilities rose from 62,000 to nearly 77,000 during the same period. Florida was the first state in the country to develop a Medicaid waiver program specifically targeted to residents of assisted living facilities. This waiver program allows the state to purchase additional supportive services for assisted living facility residents who would otherwise be placed in nursing home care. In 1998, the Legislature, in proviso language in the General Appropriations Act, targeted funds in the waiver to require the department to enroll a public housing facility (the Metro-Dade Housing Agency) as an assisted living waiver provider.

### **Nursing Home Liability in Florida**

There is a growing concern among long-term care policy experts that liability costs to nursing homes in Florida are growing at a disproportionate rate compared to the rest of the country. According to an actuarial study commissioned by the Florida Health Care Association, general and professional liability losses for the long-term care industry in Florida are the highest in the United States, increasing 200% in the past four years, resulting in a significant decline in the availability of coverage.

### **Financial Condition of the Nursing Home Industry**

A combination of factors, including changes to Medicare reimbursement mandated by the Balanced Budget Act of 1997, have placed many nursing homes in precarious financial positions. A number of major nursing home chains (Vencor, Mariner, Sun Healthcare, and Integrated Health Care Systems) are currently in bankruptcy proceedings. In Florida, 21 percent (17,000) of nursing home beds are in facilities which have filed for Chapter 11 protection.

### **Home and community-based care alternatives to nursing home placement**

The Department of Elder Affairs and the Medicaid program operate a number of programs to provide support services to elderly individuals to assist them in remaining in their homes by mitigating the decline in functioning brought about by increasing frailty. The Community Care and Medicaid Waiver programs operated by the department serve approximately 49,000 elderly individuals.

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

The bill establishes the Task Force on the Availability and Affordability of Long-term Care, to study issues related to the provision of long-term care to the elderly in nursing homes and alternatives to nursing homes and to make recommendations to the Governor and the Legislature. The task force is charged to study long-term care issues in terms of the availability of alternative housing and care settings and community based care arrangements, the adequacy of reimbursement arrangements in both nursing home and alternative care arrangements, the availability of long-term care insurance, the role of the certificate-of-need process in the development of long-term care systems, issues related to the economic stability and quality of long-term care facilities as influenced by market forces and lawsuits against nursing homes, and the cost and availability of liability insurance for long-term care providers.

The task force is comprised of 13 members, including the Lieutenant Governor, who is the chair; the secretary of Elder Affairs; the state Medicaid director; the Chief of Health Facility compliance at the Agency for Health Care Administration; the State Long-Term Care Ombudsman; a member of the Florida Bar; one representative each from the Florida Assisted Living Association, the Florida Health Care Association, and the Florida Association of Homes for the Aging; a representative of the insurance industry who has experience in insurance markets affecting long-term care; a member representing public housing authorities; a member representing the American Association of Retired Persons; and an investment banker who has experience in long-term-care economics.

The task force is located at the University of South Florida for administrative purposes. The Florida Policy Exchange Center on Aging is to provide staff and support services to the task force.

The members of the task force may not delegate attendance or voting power to designees. Appointments to the task force must be completed within two weeks after the effective date of the act and the task force must hold its first meeting within 1 month after the effective date of the act. The task force is required to submit a report of its recommendations to the Governor, the

President of the Senate and the Speaker of the House of Representatives by January 1, 2001. The task force shall expire on March 1, 2001.

The non-recurring sum of \$250,000 is appropriated to the University of South Florida for the purposes of implementing the bill.

The bill takes effect upon becoming a law.

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

##### **A. Municipality/County Mandates Restrictions:**

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

##### **B. Public Records/Open Meetings Issues:**

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Subsections 24(a) and (b) of the Florida Constitution.

##### **C. Trust Funds Restrictions:**

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

None.

##### **C. Government Sector Impact:**

The non-recurring sum of \$250,000 is appropriated to the University of South Florida for the purposes of implementing the bill.

#### **VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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