

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 1532

SPONSOR: Senator Dawson and others

SUBJECT: Long-Term Care

DATE: March 31, 2001 REVISED: 4/12/01 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Thomas</u>	<u>Wilson</u>	<u>HC</u>	<u>Fav/1 amendment</u>
2.	<u>deMarsh-Mathues</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Favorable</u>
3.	_____	_____	<u>AED</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Senate Bill 1532 creates the “Moses General Miles Act” to provide for the development of a grant program by the Institute on Urban Policy and Commerce at Florida Agricultural and Mechanical University to fund five pilot projects for assisted living facilities (ALFs) in five urban distressed communities in Florida. The funding must be provided to not-for-profit community and faith-based organizations that submit plans for ALFs for the low-income elderly in urban distressed communities. The institute must develop weighted criteria for review of proposals and give priority to proposals submitted by organizations that emphasize the improvement of conditions for neighborhood residents.

The bill provides for a review panel within the institute appointed by the president of the university to evaluate submitted proposals, to consist of: one member affiliated with the Agency for Health Care Administration; the Secretary of the Department of Health, or a designee; the President of Enterprise Florida, Inc., or a designee; one member from a private-sector investment organization; one member affiliated with the Office of Tourism, Trade, and Economic Development; one member from a professional trade organization representing ALFs; and one member affiliated with Workforce Florida, Inc. The director of the institute, or a designee, will serve as secretary to the panel without voting rights.

The institute will develop and provide program technical assistance support to the organizations submitting proposals. The institute has the authority to adopt rules to implement the provisions of the act. There is appropriated from the General Revenue Fund \$1.5 million to develop and provide technical support to applicable organizations and contracts. The bill allows the institute to allocate up to \$225,000 to each of the five pilot projects.

This bill creates three undesignated sections of law.

II. Present Situation:

Assisted Living Facilities

Assisted living facilities (ALFs) are those entities providing residential care and personal services to recipients, typically the aged, under part III, chapter 400, F.S.¹ The purpose of ALFs is to: promote the availability of appropriate services for elderly persons and adults with disabilities in the least restrictive and most homelike environment; promote the dignity, individuality, privacy and decisionmaking ability of residents; provide for the health, safety and welfare of residents; develop innovative and affordable facilities for persons with low to moderate incomes; and ensure that needed economic, social, mental health, health, and leisure services are made available to the residents.²

To the maximum extent possible, appropriate community-based programs must be made available to state-supported residents to augment the services provided in ALFs.³ The Legislature recognizes that ALFs are an important part of the continuum of long-term care and that ALFs should be operated and regulated as residential environments with supportive services and not as medical or nursing facilities.⁴ The services provided by ALFs are intended to help residents remain as independent as possible.⁵ Regulations governing ALFs must be sufficiently flexible to allow the facilities to meet resident needs and accommodate resident preferences.⁶

The Agency for Health Care Administration (AHCA) licenses ALFs in Florida, and such licensure is a public trust and a privilege, not an entitlement.⁷ It is illegal to operate an ALF without a license and any person who owns or operates an ALF without a license commits a felony of the second degree.⁸ ALFs may by means of additional licenses provide services to residents with special needs, such as extended congregate care,⁹ limited nursing services,¹⁰ and limited mental health care.¹¹

Regulation of ALFs is a multi-agency endeavor, involving AHCA, the Department of Elderly Affairs, the Department of Children and Family Services, and the Department of Health. AHCA is responsible for licensing and conducting site surveys of ALFs, to include the issuance of fines and licensure restrictions in response to deficient practices.¹² The Department of Elderly Affairs is responsible for promulgation of administrative rules regarding ALFs.¹³ The Department of Children and Family Services is responsible for regulating resident placement, in conjunction with AHCA, the investigation of allegations of elder abuse, and training for limited mental health

¹ s. 400.402(6), F.S.

² s. 400.401(2), F.S.

³ s. 400.401(2), F.S.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ ss. 400.404(1) and 400.401(3), F.S.

⁸ s. 400.408(1), F.S.

⁹ ss. 400.402(12) and 400.407(3)(b), F.S.

¹⁰ ss. 400.402(14) and 400.407(3)(c), F.S.

¹¹ s. 400.4075, F.S.

¹² ss. 400.407, 400.414 and 400.419, F.S.

¹³ s. 400.441, F.S.

licenses.¹⁴ The Department of Health consults with the other agencies in the establishment of evaluative and regulatory standards and criteria.¹⁵

ALFs are required as a matter of licensure to: maintain liability insurance;¹⁶ conduct background screenings on owners, operators and employees;¹⁷ maintain satisfactory firesafety standards as determined by a local firesafety authority;¹⁸ furnish proof of financial ability to operate the facility;¹⁹ furnish documentation of a satisfactory sanitation inspection by a county health department;²⁰ comply with local zoning requirements and building construction codes;²¹ maintain specified records as required by AHCA;²² determine the appropriateness of admission of all residents;²³ safeguard the property and personal affairs of residents;²⁴ enter into a services and accommodations contract with each resident upon admission or prior thereto;²⁵ and assist residents with self-administration of medication.²⁶

Urban Distressed Communities

Workforce Florida, Inc.²⁷ in the Agency for Workforce Innovation, Enterprise Florida, Inc.²⁸ in the Department of Management Services, and the Office of Tourism, Trade, and Economic Development²⁹ in the Executive Office of the Governor, work in conjunction with one another to link economic development and workforce development goals and strategies of the state.³⁰ The three entities monitor the activities of public-private partnerships and state agencies in order to promote coordinated and consistent implementation of programs relating to: business recruitment, creation, retention and expansion; workforce development; and minority and small business development.³¹

Inherent in the program missions of these entities is the creation, promotion and expansion of urban economic initiatives. Such initiatives typically seek to employ under-utilized urban workforces and distressed community infrastructure in a symbiotic way to enhance employment and improve inner-city physical plant. Such urban re-development initiatives have been successfully utilized by local, state, and federal agencies across the county for the past 40 years.

¹⁴ ss. 400.4075, 400.408(2), 400.426, 400.431, 400.434 and 400.441, F.S.

¹⁵ s. 400.441(1), F.S.

¹⁶ s. 400.411(6), F.S.

¹⁷ ss. 400.411(11) and 400.4174, F.S.

¹⁸ ss. 400.411(9), 400.414(1)(k) and 400.441(1)(a), F.S.

¹⁹ s. 400.411(4), F.S.

²⁰ s. 400.411(10), F.S.

²¹ ss. 400.4445 and 400.444, F.S.

²² ss. 400.4275 and 400.435, F.S.

²³ s. 400.426, F.S.

²⁴ s. 400.427, F.S.

²⁵ s. 400.424, F.S.

²⁶ s. 400.4256, F.S.

²⁷ s. 445.004, F.S.

²⁸ s. 288.901, F.S.

²⁹ s. 14.2015, F.S.

³⁰ s. 14.2015(1)(b), F.S.

³¹ *Id.*

Institute on Urban Policy and Commerce at Florida Agricultural and Mechanical University

Section 240.709, F.S., establishes the Institute on Urban Policy and Commerce under the Board of Regents at Florida Agricultural and Mechanical University to improve the quality of life in urban communities through research, teaching, and outreach activities. The institute's major purposes include assisting with the planning, development, and capacity building of urban area nonprofit organizations and government agencies and supporting the community development efforts of inner-city areas, neighborhood-based organizations, and municipal agencies. The law allows the institute to establish regional urban centers to be located in specific inner cities.

The Institute must research and recommend strategies concerning critical issues facing the under-served population in urban communities, including but not limited to, transportation and physical infrastructure; affordable housing; tourism and commerce; environmental restoration; job development and retention; child care; public health; life-long learning; family intervention; public safety; and community relations.

III. Effect of Proposed Changes:

This bill has as its purpose the creation of jobs and assisted living facilities in economically and physically distressed urban areas. By utilizing neighborhood organizations and residents, the bill will enhance employment for workers, and provide assisted living for elders, in the most disadvantaged communities in the state.

Section 1. Specifies that the bill may be cited as the Moses General Miles Act.

Section 2. Allows the Institute on Urban Policy and Commerce at Florida Agricultural and Mechanical University to develop a grant program to fund five pilot ALF projects in five of the ten urban distressed communities of Pensacola, Tallahassee, Jacksonville, Daytona Beach, Orlando, Tampa, St. Petersburg, West Palm Beach, Ft. Lauderdale and Miami-Dade. The funding must be for not-for-profit community and faith-based organizations, with a current exemption from federal taxation under s. 501(c)(3) or (4) of the Internal Revenue Code. The institute must develop weighted criteria for review of proposals and give priority to proposals submitted by neighborhood-based organizations that have as a principal part of their missions the improvement of conditions for residents of such neighborhoods.

Each organization seeking funding must submit to a review panel a strategic plan that outlines the need for and location of ALFs for low-income elderly persons in urban distressed communities. The plan should incorporate public-private partnerships that will be used in developing and constructing the ALFs.

A review panel is created within the institute to evaluate submitted proposals consisting of seven members appointed by the president of the university, as follows: one member affiliated with AHCA; the Secretary of the Department of Health, or a designee; the President of Enterprise Florida, Inc., or a designee; one member from a private-sector investment organization or institution; one member affiliated with the Office of Tourism, Trade, and Economic Development; one member from a professional trade organization representing ALFs; and one

member affiliated with Workforce Florida, Inc. The director of the institute, or a designee, will serve as secretary to the panel without voting rights.

The institute will develop and provide program technical assistance support to the organizations interested in submitting development proposals. The institute has the authority to adopt rules to implement the provisions of the act.

Section 3. Appropriates from the General Revenue Fund to the institute the sum of \$1.5 million to develop and provide technical support to community and faith-based organizations and for contracts for five pilot projects. The institute is authorized to allocate up to \$225,000 to each of the five pilot projects.

Section 4. Provides that should this bill become law, it will take effect July 1, 2001.

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 Art. VII, s. 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 Art. I, s. 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 Art. III, s. 19(f) of the Florida Constitution.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Up to \$225,000 may be allocated to each of five pilot projects that use public-private partnerships for the construction of ALFs.

C. Government Sector Impact:

There is a \$1.5 million appropriations from the General Revenue Fund for the development and implementation of a grant program to Florida Agricultural and Mechanical University's Institute on Urban Policy and Commerce. The institute will incur some costs to implement the requirements of the bill related to developing the grant program, forming the review panel, and providing any needed technical assistance.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Because of the Department of Elderly Affairs' role in promulgating rules for ALFs, it may be appropriate for the department to be represented on the review panel. The bill authorizes the institute to adopt rules to implement the program. Generally, the institutes associated with state universities do not have rulemaking authority. The institute could be directed to follow the rules adopted by Florida Agricultural and Mechanical University to implement the program established in the bill.

VIII. Amendments:

#1 by Health, Aging and Long-Term Care:

Provides that the Secretary of the Department of Elderly Affairs, or a designee, shall be included on the proposal review panel.

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