

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: CS/SB 1980

SPONSOR: Health, Aging and Long-Term Care Committee and Senator Silver

SUBJECT: Children's Health Care

DATE: March 12, 2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Liem	Wilson	HC	Favorable/CS
2.	_____	_____	AHS	_____
3.	_____	_____	AP	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The Committee Substitute for SB 1980 states the intent of the Legislature that state and local funds be used, within available appropriations, to expand coverage to children not eligible for federal matching funds under Title XXI; deletes obsolete language regarding the duties of the Florida Healthy Kids Corporation; provides that local match contributions are voluntary and are to be used to pay premiums for children who are not eligible for Title XXI coverage; lists entities that may provide local match; requires that the minimum amount of local match cash contributions and local-match credits are to be determined by the General Appropriations Act; requires the Corporation to calculate a county's local match rate based on that county's percentage of the state's total non-title XXI expenditures; and provides that the factors the Corporation may consider in awarding local match credits include but are not limited to, population density, per-capita income, and existing child-health-related expenditures and services.

The Corporation is allowed to accept supplemental local match contributions which comply with the requirements of Title XXI in order to provide coverage, in contributing counties, to additional children which would be matched under Title XXI. The Corporation is to establish procedures for providers of local match to have reviews of grievances by an impartial body, and is to establish disenrollment criteria in the event local matching funds are insufficient to cover enrollments.

The bill deletes language pertaining to the current local match requirements and adds two members to the Corporation's board of directors. One of the new members is to be appointed by the Insurance Commissioner from a list of three members nominated by the Florida Association of Counties representing rural counties; the other new member is appointed by the Governor

from a list of three members nominated by the Florida Association of Counties representing urban counties.

The bill amends s. 624.91, F.S.

II. Present Situation:

Florida's Kidcare program was created by the 1998 Legislature to make affordable health insurance available to low and moderate-income Florida children. Kidcare is an umbrella program that currently includes the following four components: Medicaid for children; Medikids; Florida Healthy Kids; and the Children's Medical Services Network, which includes a behavioral health component.

The Florida Healthy Kids program component of Kidcare is administered by the non-profit Florida Healthy Kids Corporation, established in s. 624.91, F.S. The Healthy Kids program existed prior to the implementation of the federal Title XXI child health insurance program. Florida was one of three states to have the benefit package of an existing child health insurance program (Healthy Kids) grandfathered in as part of the Balanced Budget Act of 1997, which created the federal child health insurance program.

Use of Local Matching Funds in the Healthy Kids Program

The Healthy Kids program operates with a combination of local, state, and federal dollars, and family contributions. Section 624.91(2)(b), F.S., states that it is the intent of the Legislature that state and local government Healthy Kids funds, to the extent permissible under federal law, be used to obtain matching federal dollars. Healthy Kids has required counties to contribute funds to support the health insurance subsidy for families since 1993; in fact, the original concept of the program was that state monies were to be considered seed funds, which would eventually be supplanted entirely by local funds. Early Healthy Kids contracts for local programs required counties in which the program operated to develop a plan to gradually increase county matching contributions from a base amount of five percent of total program costs, with a goal of eventually funding local program operations 100 percent from local funds.

Under early Healthy Kids program requirements, local matching funds could be obtained from any source: local tax dollars, providers who had traditionally provided charity care to indigent individuals, charitable contributions and other sources. In the original implementation of the program in the early 1990s, traditional providers of indigent care, particularly hospitals, often contributed local match using funds that had traditionally supported the provision of care to indigent children, since providing these children with health care coverage and the ability to secure regular preventive care was both a more economical and a more humane way to meet these children's health care needs.

Meanwhile, in response to concerns about the millions of uninsured children in the nation, Congress allotted, through the Balanced Budget Act of 1997 (P.L. 105-33), approximately \$40 billion over 10 years to help states expand health insurance coverage to children. The act, which created Title XXI of the Social Security Act, allows states to expand coverage for children

through expanding the existing Medicaid program or creating or expanding a separate program specific to the children's initiative.

The federal Title XXI program allowed Florida to access an enhanced federal match rate of 69 percent, meaning that every dollar Florida put into coverage under the Title XXI program leveraged an additional \$2.23 in federal funds. The 1998 Legislature authorized implementation of Florida's Title XXI program, Kidcare, and modified operations of the Healthy Kids program to expand the program statewide, and align its operations with the requirements of Title XXI to use Healthy Kids funding to gain the enhanced federal match.

At the time of implementation of Florida's Title XXI expansion of Healthy Kids, approximately \$7,000,000 in local matching funds were committed to the program. Restrictions on provider donations for Title XXI required the Healthy Kids program to review the sources of local matching funds.

Federal Prohibition on Provider Donations

The use of provider-related donations as match for federal funds is controlled by s. 2107(e)(1)(C) of the Social Security Act, which requires that, for Title XXI match purposes, states adhere to the requirements of s. 1903(w) of Title XIX of the Act. Federal regulations implementing this provision of the act are in 42 CFR Subpart B, which specify:

“...Effective January 1, 1992, HCFA will deduct from a state's expenditures for medical assistance, before calculating FFP, funds from provider related donations and revenues generated by health care-related taxes received by a State or unit of local government, in accordance with the requirements, and limitations of this subpart...”

As noted earlier, the Florida Healthy Kids Corporation, in its pre-Title XXI operation, had accepted local matching funds from a variety of sources, including health care providers. With the advent of Title XXI, the Florida Healthy Kids Corporation could no longer accept these funds for use as state match to cover children. Between April and July, 1998, the corporation began asking counties to certify that local match contained no provider funds. In October, 1999, the corporation received a confirmation from HCFA, which clarified that funds received from providers of health care or related entities could not be used as match for Title XXI purposes. Beginning in January, 2000, the corporation began auditing local contributions to document that local matching commitments were not provider-related donations. This change has meant that local governments, which have previously relied on provider funds to meet local match commitments, have had to find other sources to fund these commitments.

Base Slots

Section 624.91(4)(b)15, F.S., requires the Healthy Kids board of directors to establish a maximum number of children who may enroll in the program in each county without benefit of local match. The corporation refers to these as “base” slots. In 1998, the Healthy Kids board established a policy that in each county where the program operated, the county would receive an allocation of base slots equal to ten percent of that county's enrollment, or 200 slots, whichever was greater. In May, 1999, the corporation increased the base number of slots to 500. Following

HCFA's disapproval of the Employer Sponsored Dependant Coverage component of the Kidcare program, the state reallocated the funds that had been set aside for this coverage. The Florida Healthy Kids Corporation allocated these funds toward additional base slots to counties, eliminating the Healthy Kids waiting list.

The 2000 Legislature included funding for a dental benefit package in counties that continue their commitment to provide local match in excess of \$4,000. The General Appropriations Act for FY 2000-2001 also contained proviso language that stated:

“In the event current local match levels are not met by counties the Healthy Kids program shall freeze admissions in those counties which do not meet their local match commitments and requirements and begin reducing enrollment through attrition to reach the equivalent value of lost local, state, and associated federal matching funds.”

Legislatively Mandated Review of Local Match Requirements

The 2000-01 General Appropriations Act contained proviso directing the Florida Healthy Kids Corporation to conduct a review of current local match requirements and develop a recommendation for a multi-year proposal related to the reduction of local match. The final report was submitted November 30, 2000, and contained the following recommendations:

- The number of children covered under the program should be maintained.
- Current healthcare and dental benefits levels should be maintained.
- Counties should continue to have the ability to enhance benefits and coverage.
- “Base slots” should be reinstated based on population estimates.
- For those counties that expand coverage above base slots, the local match contribution should be structured in a three-tier fashion that recognizes a county's economic base.
- A three-year schedule for implementing the voluntary local match contribution is recommended.

By year three the recommended percentage of local match contributions is two percent for counties with the lowest economic base, six percent for counties with a moderate economic base, and ten percent for counties with the highest economic base.

Proviso in the 2001-2002 General Appropriations Act and the Governor's Challenge

Proviso language attached to line 227 in the 2001-2002 General Appropriations Act directed:

“...No local matching funds are required for FY 2001-02 for the Kidcare program, however, the Florida Healthy Kids Corporation shall develop and implement a local match policy for the purpose of continuing and expanding coverage of uninsured children who do not meet the eligibility requirements of Title XXI. The Florida Healthy Kids Corporation shall replace local match from 2000-2001 funding.”

In his veto message for items in the 2001-2002 General Appropriations Act, the Governor indicated that he intended to challenge the constitutionality of the local match proviso contained in the General Appropriations Act:

“Specific appropriation 227 contains proviso language which attempts to eliminate participation by local governments in the funding of Kidcare. Since this proviso contains no dollar amount, it is not available for veto. However, this proviso contradicts s. 624.91(4)(b)2. and 15., Florida Statutes, which delegates authority to determine local match to the Board of Directors of the Florida Healthy Kids Corporation. Because this proviso language attempts to change or amend substantive law, I believe it violates Article III, Section 12 of the Florida Constitution, and have asked my legal office to take action to judicially void this language. Kidcare should be a true partnership between federal, state and local governments. I encourage the Healthy Kids Board to adopt a local match policy which provides for an equitable contribution by all counties but provides a reduced funding amount for counties which are economically deprived.”

In July, 2001, the Governor filed suit challenging the legality of several provisions of the General Appropriations Act, including the Healthy Kids local match proviso. On September 17, 2001, a settlement was reached on all issues in the Governor’s challenge except the Healthy Kids language. In September, 2001, the Legislature joined the suit as a defendant. The Legislature resolved this issue during 2001 Special Session C by eliminating in statute a local match requirement in each county for Fiscal year 2001-02. The Governor withdrew his suit the day this action became law. The special session provision eliminating local match expires July 1, 2002, when local match will again be required.

The Healthy Kids Board has adopted the year one recommendation of its previously submitted local match reduction plan. The effective date of this policy is the later of October 1, 2001, or the date on which the Governor’s legal challenge is settled (assuming the proviso language is struck down). Counties have been notified of what their match amount would be under this scenario. The Florida Healthy Kids Corporation is not currently requiring local match contributions for Healthy Kids coverage.

III. Effect of Proposed Changes:

Section 1. Amends s. 624.91, F.S., to state the intent of the Legislature that state and local funds be used to expand coverage, within available appropriations, to children not eligible for federal matching funds under Title XXI, to delete obsolete language regarding the duties of the corporation, and to revise provisions relating to local matching funds.

Local contributions are voluntary and are to be used to pay premiums for children who are not eligible for Title XXI. Annually, the Corporation is to establish a local match policy for the enrollment of non-Title XXI children in the program, and is to provide notification of the amount of local match to be remitted to the Corporation by May 1 of each year.

Entities that may provide local match include, but are not limited to municipalities, counties, school boards, hospitals, health care providers, charitable organizations, special taxing districts, and private organizations.

The minimum amount of local match cash contributions and local-match credits are to be determined by the General Appropriations Act. The Corporation is to calculate a county’s local

match rate based on that county's percentage of the state's total non-Title XXI expenditures as reported in the Corporation's most recently audited financial statement.

Factors the Corporation may consider in awarding local match credits include, but are not limited to population density, per-capita income, existing child-health-related expenditures and services. The corporation is allowed to accept supplemental local match contributions which comply with the requirements of Title XXI in order to provide coverage for additional children, in contributing counties, which would be matched under Title XXI.

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Section 2. Provides an effective date of 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 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:

Under the provisions of the bill all state funds will be used to provide coverage matched by the federal government, meaning the state will be able to cover additional children. To the extent that counties contribute additional voluntary local funds which are eligible for federal title XXI match, additional children will be provided coverage. Providing coverage to additional children will reduce the amount of uncompensated care rendered by medical providers.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.