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 1112

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

SUBJECT: Care for Elderly Persons

DATE: March 11, 2003 REVISED: _____ _____ _____ _____

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

I. Summary:

The bill directs the Agency for Health Care Administration (AHCA) and the Department of Elderly Affairs to assist a private, not-for-profit organization located in Lee County, which provides comprehensive services, including hospice services to the frail and elderly, to get approval as a Program of All-inclusive Care for the Elderly (PACE). By September 30, 2003, AHCA must approve 50 initial enrollees and up to 200 enrollees within 2 years, subject to the ability of a private organization to expand its capacity to do so. Any authorization for enrollment levels above 200 requires documentation of program effectiveness. By July 1, 2004, and subject to an appropriation, AHCA must contract with a private, not-for-profit organization in Lee County to provide services under PACE in Lee County and the surrounding counties, subject to federal approval of the provider application.

This bill creates an undesignated section of law.

II. Present Situation:

The Program of All-inclusive Care for the Elderly (PACE) is a new capitated benefit authorized by the Balanced Budget Act of 1997 (BBA) that features a comprehensive service delivery system and integrated Medicare and Medicaid financing. The program is modeled after the system of acute and long-term care services developed by On Lok Senior Health Services in San Francisco, California. The model was tested as demonstration projects that began in the mid-1980s through the Centers for Medicare & Medicaid Services (CMS) formerly known as the Health Care Financing Administration. The PACE model was developed to address the needs of long-term care clients, providers, and payers. For most participants, the comprehensive service package permits them to continue living at home while receiving services rather than being institutionalized. Capitated financing allows providers to deliver all services that participants

need rather than being limited to those services reimbursable under the Medicare and Medicaid fee-for-service systems.

The Balanced Budget Act establishes the PACE model of care as a permanent entity within the Medicare program and enables states to provide PACE services to Medicaid beneficiaries as a State option. The state Medicaid plan must include PACE as an optional Medicaid benefit before the state and the Secretary of the United States Department of Health and Human Services (DHHS) can enter into program agreements with PACE providers.

The annual growth of the PACE program is limited under the BBA. The number of PACE program agreements in the first year after enactment are limited to no more than 60; the limit increases by 20 each year thereafter under the BBA. The Balanced Budget Act further provides for priority processing and special consideration of applications for existing PACE demonstration sites and to those entities that applied to operate a PACE demonstration project on or before May 1, 1997.

PACE participants must be at least 55 years old, live in the PACE service area, and be certified as eligible for nursing home care by the appropriate State agency. The PACE program becomes the sole source of services for Medicare and Medicaid eligible enrollees.

An interdisciplinary team, consisting of professional and paraprofessional staff, assesses participants' needs, develops care plans, and delivers all services (including acute care services and when necessary, nursing facility services) which are integrated for a seamless provision of total care. A PACE program provides social and medical services primarily in an adult day health center, supplemented by in-home and referral services in accordance with the participant's needs. The PACE service package must include all Medicare and Medicaid covered services, and other services determined necessary by the multidisciplinary team for the care of the PACE participant.

A PACE provider receives monthly Medicare and Medicaid capitation payments for each eligible enrollee. Medicare eligible participants who are not eligible for Medicaid pay monthly premiums equal to the Medicaid capitation amount, but no deductibles, coinsurance, or other type of Medicare or Medicaid cost-sharing applies. A PACE provider assumes full financial risk for participants’ care without limits on amount, duration, or scope of services.

A PACE site has the option to seek extension of its current demonstration authority for a limited period of time after the date of promulgation of the PACE regulations. Therefore, states that currently have PACE demonstration sites do not need to submit a state plan amendment electing the PACE state option to continue to provide services through the demonstration. However, to continue the PACE program at any time the demonstration ceases, a state must elect to provide PACE as a Medicaid state plan option in their state plan, and the PACE demonstration site must submit an application to enter into a program agreement with the State and the Secretary of DHHS as a PACE provider.

The development and approval process for PACE involves a three-way partnership between CMS, the state, and the provider. The state must approve the PACE application before sending it to CMS and CMS has 90 days to review the application, and either approve it or request

additional information. After the state responds to any request for information, CMS has an additional 90 day period to approve the application or request additional information. As a result, the federal approval process may be lengthy. Before CMS approves the PACE application, the state must conduct an on-site visit to the PACE site and certify that it meets all state and federal requirements to serve enrollees.

Under s. 430.707, F.S., the Department of Elderly Affairs, in consultation with the Agency for Health Care Administration, may contract with entities that have submitted an application as a community nursing home diversion project as of July 1, 1998, to provide benefits under PACE. There is one PACE provider in Florida, Florida PACE Centers, Inc., a subsidiary of Miami Jewish Home and Hospital for the Aged. Florida PACE Centers, Inc. began serving enrollees in part of Dade County on February 1, 2003. The PACE provider is exempt from the requirements of ch. 641, F.S., relating to health maintenance organizations, if the entity is a private, nonprofit, superior-rated nursing home with at least 50 percent of its residents eligible for Medicaid.

Part IV, ch. 400, F.S., provides for the regulation of hospices. Section 400.601(3), F.S., defines "hospice" to mean a centrally administered corporation not for profit, as defined in ch. 617, F.S., providing a continuum of palliative and supportive care for the terminally ill patient and his or her family. "Terminally ill" is defined to mean that the patient has a medical prognosis that his or her life expectancy is 1 year or less if the illness runs its normal course. The Social Security Act requires that a hospice must serve terminally ill patients. Under the Social Security Act, "terminally ill" is defined to mean a medical prognosis that the individual's life expectancy is six months or less.

III. Effect of Proposed Changes:

Section 1. Creates the "All- inclusive Care for the Elderly Act." Legislative findings are specified that the establishment of additional sites for the Program of All-inclusive Care for the Elderly (PACE), as established under federal law, should be encouraged in Florida as one method to enhance the ability of frail and elderly persons who are certified as needing placement in a residential nursing home to delay the necessity of such placement as long as possible. The Program of All-inclusive Care for the Elderly offers a means to control Medicaid costs for long-term care. Lee County and surrounding counties represent a growing region where an opportunity exists to assist elderly persons to maintain independence outside of nursing homes and where the state may reduce Medicaid expenditures for providing long-term care. There is a need to develop a model for hospice providers to offer nursing home diversion services as part of an array of end-of-life care and services available to frail and elderly persons.

The Agency for Heath Care Administration and the Department of Elderly Affairs must assist a private, not-for-profit organization located in Lee County, which provides comprehensive services including hospice care for frail and elderly persons, to gain approval for providing services under the Program of All-inclusive Care for the Elderly. By September 30, 2003, the Agency for Health Care Administration must approve 50 initial enrollees in the PACE program and up to 200 enrollees within 2 years, subject to the ability of a private organization to sufficiently expand its capacity for the additional enrollees. For enrollments greater than 200, the PACE site must document the effectiveness of its program. By July 1, 2004, the Agency for Health Care Administration must contract with a private, non-for-profit organization in Lee

County, to provide services under PACE to the elderly in Lee County and surrounding counties, subject to federal approval of the PACE provider application.

Section 2. Provides an effective date of July 1, 2003.

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 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 Article III, Subsection 19(f) of the Florida Constitution.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Individuals located in Lee County and surrounding counties who are in need of comprehensive home and community based long-term care services will have an additional choice of programs to serve their needs.

C. Government Sector Impact:

The Agency for Health Care Administration (AHCA) will incur costs to assist an entity in the PACE approval process and assumes, for purposes of the fiscal impact on AHCA, that the PACE provider will not be approved and serving enrollees until the fiscal year 2004-2005. According to AHCA, if 50 participants are enrolled during the first 12 months of the operation of the PACE provider at a cost of $1,943.62 per person, per month then the total recurring costs for fiscal year 2004-2005 would be $1,166,172, offset by the receipt of a federal grant under Title XIX Medical Assistance equal to $687,109, so that the total state funding needed would be $479,063.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.