

By Senator Lynn

7-1252C-03

1                                   A bill to be entitled  
2           An act relating to community-based social  
3           services initiatives; creating s. 409.033,  
4           F.S.; providing legislative intent that local  
5           government matching funds shall be used to the  
6           extent possible to match federal funding where  
7           state funding is inadequate to use such federal  
8           funding; requiring agencies to create plans to  
9           utilize local matching funds; making  
10          participation by local governments voluntary;  
11          requiring reports; amending s. 409.1671, F.S.;  
12          authorizing the transfer of funds for child  
13          welfare legal services to community-based  
14          providers; deleting the requirement for  
15          contracts for legal services in certain  
16          counties; requiring certain actions by a  
17          technical assistance team prior to a lead  
18          community-based provider services contract  
19          being signed; decreasing the amount of  
20          automobile liability insurance required of  
21          certain community-based care providers and the  
22          amount of economic damages which may be  
23          claimed; deleting certain termination of  
24          services notice requirements; requiring the  
25          payment of certain administrative costs  
26          incurred by lead community-based providers;  
27          amending s. 409.16745, F.S.; changing  
28          eligibility requirements for participation in  
29          the community partnership matching grant  
30          program; amending s. 409.175, F.S.; providing  
31          for an assessment by a family services

1 counselor and approval by a supervisor, rather  
2 than a comprehensive behavioral health  
3 assessment, of children in certain family  
4 foster homes; providing an effective date.  
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6 Be It Enacted by the Legislature of the State of Florida:  
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8 Section 1. Section 409.033, Florida Statutes, is  
9 created to read:

10 409.033 Maximization of local matching revenues.--

11 (1) LEGISLATIVE INTENT.--

12 (a)1. The Legislature recognizes that state funds do  
13 not fully utilize federal funding matching opportunities for  
14 health and human services needs. It is the intent of the  
15 Legislature to utilize certified local funding for federal  
16 matching programs to the fullest extent possible to maximize  
17 federal funding of local preventive services and local child  
18 development programs in the State of Florida. To that end, the  
19 Legislature expects that state agencies will take a proactive  
20 approach in implementing this legislative priority.

21 2. It is further the intent of the Legislature that  
22 this section shall be implemented in a revenue-neutral manner  
23 with respect to state funds.

24 (b) It is the intent of the Legislature that revenue  
25 maximization opportunities using certified local funding shall  
26 occur only after available state funds have been utilized to  
27 generate matching federal funding for the state.

28 (c) It is the intent of the Legislature that  
29 participation in revenue maximization is to be on a voluntary  
30 basis for local political subdivisions.  
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1           (d) It is the intent of the Legislature that certified  
2 local funding for federal matching programs not supplant or  
3 replace state funds.

4           (2) REVENUE MAXIMIZATION PROGRAM.--

5           (a) For purposes of this section, "agency" shall mean  
6 any state agency involved in providing health, social, or  
7 human services, including, but not limited to, the Agency for  
8 Health Care Administration, the Agency for Workforce  
9 Innovation, the Department of Children and Family Services,  
10 the Department of Elderly Affairs, the Department of Juvenile  
11 Justice, and the Florida Board of Education.

12           (b) Each agency is directed to establish programs and  
13 mechanisms designed to maximize the use of local funding for  
14 federal programs in accordance with this section.

15           (c) The use of local matching funds under this section  
16 shall be limited to public revenue funds of local political  
17 subdivisions, including, but not limited to, counties, cities,  
18 and special districts. To the extent permitted by federal law,  
19 funds donated to such local political subdivisions by private  
20 entities or individuals shall be considered to be public  
21 revenue funds available for matching federal funding.

22           (d) Subject to the provisions of paragraph (f), any  
23 federal reimbursement received as a result of the  
24 certification of local matching funds shall, unless otherwise  
25 specifically prohibited by federal or state law or by the  
26 General Appropriations Act, be returned by check or wire  
27 transfer to the local political subdivision providing such  
28 funding, with the local political subdivision being provided  
29 an annual accounting of federal reimbursements received by the  
30 state or its agencies as a result of the certification of the  
31 local political subdivision's matching funds. The receipt by a

1 local political subdivision of such matching funds shall not  
2 in any way influence or be used as a factor in developing any  
3 agency's annual operating budget allocation methodology or  
4 formula or any subsequent budget amendment allocations or  
5 formulas. Where necessary, agreements with an agency and the  
6 local political subdivision to accomplish such purpose shall  
7 be established. Such agreements may provide that the local  
8 political subdivision is responsible to:

9 1. Verify the eligibility of the local program or  
10 programs and the individuals served thereby to qualify for  
11 federal matching funds.

12 2. Develop and maintain the financial records needed  
13 to document the appropriate use of federal matching funds.

14 3. Comply with all applicable state and federal laws,  
15 regulations, and rules regulating such federal services.

16 4. Reimburse the cost for any disallowance of federal  
17 funding previously provided to a local political subdivision  
18 resulting from failure of that local political subdivision to  
19 comply with applicable state or federal laws, rules, or  
20 regulations.

21 (e) Each agency, as applicable, shall work with local  
22 political subdivisions to modify any state plans and seek and  
23 implement any federal waivers necessary to implement this  
24 section. If such modifications or waivers require the approval  
25 of the Legislature, the agency, as applicable, shall draft  
26 such legislation and present it to the President of the Senate  
27 and the Speaker of the House of Representatives and to the  
28 respective fiscal committee chairs of the Senate and the House  
29 of Representatives by January 1, 2004, and, as applicable,  
30 annually thereafter.

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1           (f) Except as otherwise provided by law, each agency,  
2 as applicable, prior to distribution of funds generated under  
3 this section to any local political subdivision, may deduct  
4 the actual administrative cost for implementing and monitoring  
5 the local match program, but in no event may such  
6 administrative cost exceed 5 percent of the total federal  
7 reimbursement funding to be provided to the local political  
8 subdivision under paragraph (d).

9           (g) Each agency shall annually prepare a report to be  
10 submitted to the Governor, the President of the Senate, and  
11 the Speaker of the House of Representatives no later than  
12 January 1st documenting the specific activities undertaken  
13 during the previous fiscal year pursuant to this section. The  
14 report shall include, but not be limited to:

15           1. The total amount of federal matching funds  
16 generated by local match funds under this section, reported by  
17 federal funding source.

18           2. The total amount of block grant funds expended  
19 during the prior fiscal year, reported by federal funding  
20 source.

21           3. The total amount for federal matching fund  
22 programs, including, but not limited to, Temporary Assistance  
23 for Needy Families and Child Care and Development Fund of  
24 unobligated funds and unliquidated funds, both as of the close  
25 of the prior federal fiscal year.

26           4. The amount of unliquidated funds in danger of being  
27 returned to the Federal Government at the end of the current  
28 federal fiscal year.

29           5. A detailed plan and timeline to spend any  
30 unobligated and unliquidated funds by the end of the current  
31 federal fiscal year.

1           Section 2. Paragraphs (a), (b), (f), and (h) of  
2 subsection (1) and subsections (3) and (4) of section  
3 409.1671, Florida Statutes, are amended to read:

4           409.1671 Foster care and related services;  
5 privatization.--

6           (1)(a) It is the intent of the Legislature that the  
7 Department of Children and Family Services shall privatize the  
8 provision of foster care and related services statewide. It is  
9 further the Legislature's intent to encourage communities and  
10 other stakeholders in the well-being of children to  
11 participate in assuring that children are safe and  
12 well-nurtured. However, while recognizing that some local  
13 governments are presently funding portions of certain foster  
14 care and related services programs and may choose to expand  
15 such funding in the future, the Legislature does not intend by  
16 its privatization of foster care and related services that any  
17 county, municipality, or special district be required to  
18 assist in funding programs that previously have been funded by  
19 the state. Nothing in this paragraph prohibits any county,  
20 municipality, or special district from future voluntary  
21 funding participation in foster care and related services. As  
22 used in this section, the term "privatize" means to contract  
23 with competent, community-based agencies. The department shall  
24 submit a plan to accomplish privatization statewide, through a  
25 competitive process, phased in over a 3-year period beginning  
26 January 1, 2000. This plan must be developed with local  
27 community participation, including, but not limited to, input  
28 from community-based providers that are currently under  
29 contract with the department to furnish community-based foster  
30 care and related services, and must include a methodology for  
31 determining and transferring all available funds, including

1 federal funds that the provider is eligible for and agrees to  
2 earn and that portion of general revenue funds which is  
3 currently associated with the services that are being  
4 furnished under contract, and may include available funds for  
5 child welfare legal services, in which case such legal  
6 services may be provided by the community-based agency or  
7 purchased from a public or a private nonprofit legal services  
8 entity. For the purposes of this section, the term "child  
9 welfare legal services" means the legal services and  
10 representation provided by the state for legal actions  
11 required to be performed pursuant to chapter 39.The  
12 methodology must provide for the transfer of funds  
13 appropriated and budgeted for all services and programs that  
14 have been incorporated into the project, including all  
15 management, capital (including current furniture and  
16 equipment), and administrative funds to accomplish the  
17 transfer of these programs. This methodology must address  
18 expected workload and at least the 3 previous years'  
19 experience in expenses and workload. With respect to any  
20 district or portion of a district in which privatization  
21 cannot be accomplished within the 3-year timeframe, the  
22 department must clearly state in its plan the reasons the  
23 timeframe cannot be met and the efforts that should be made to  
24 remediate the obstacles, which may include alternatives to  
25 total privatization, such as public-private partnerships. As  
26 used in this section, the term "related services" includes,  
27 but is not limited to, family preservation, independent  
28 living, emergency shelter, residential group care, foster  
29 care, therapeutic foster care, intensive residential  
30 treatment, foster care supervision, case management,  
31 postplacement supervision, permanent foster care, and family

1 reunification. ~~Unless otherwise provided for, beginning in~~  
2 ~~fiscal year 1999-2000, either the state attorney or the Office~~  
3 ~~of the Attorney General shall provide child welfare legal~~  
4 ~~services, pursuant to chapter 39 and other relevant~~  
5 ~~provisions, in Sarasota, Pinellas, Pasco, Broward, and Manatee~~  
6 ~~Counties. Such legal services shall commence and be~~  
7 ~~effective, as soon as determined reasonably feasible by the~~  
8 ~~respective state attorney or the Office of the Attorney~~  
9 ~~General, after the privatization of associated programs and~~  
10 ~~child protective investigations has occurred.~~ When a private  
11 nonprofit agency has received case management  
12 responsibilities, transferred from the state under this  
13 section, for a child who is sheltered or found to be dependent  
14 and who is assigned to the care of the privatization project,  
15 the agency may act as the child's guardian for the purpose of  
16 registering the child in school if a parent or guardian of the  
17 child is unavailable and his or her whereabouts cannot  
18 reasonably be ascertained. The private nonprofit agency may  
19 also seek emergency medical attention for such a child, but  
20 only if a parent or guardian of the child is unavailable, his  
21 or her whereabouts cannot reasonably be ascertained, and a  
22 court order for such emergency medical services cannot be  
23 obtained because of the severity of the emergency or because  
24 it is after normal working hours. However, the provider may  
25 not consent to sterilization, abortion, or termination of life  
26 support. If a child's parents' rights have been terminated,  
27 the nonprofit agency shall act as guardian of the child in all  
28 circumstances.

29 (b) It is the intent of the Legislature that the  
30 department will continue to work towards full privatization by  
31 initiating the competitive procurement process in each county



1 by January 1, 2003. In order to provide for an adequate  
2 transition period to develop the necessary administrative and  
3 service delivery capacity in each community, the full transfer  
4 of all foster care and related services must be completed  
5 statewide by December 31, 2004, except that no lead  
6 community-based provider services contract may be signed until  
7 a technical assistance team has assessed the lead agency's  
8 readiness and determined in writing that the lead agency is  
9 programmatically, financially, and otherwise fully competent  
10 and ready to assume all responsibilities required in the  
11 contract. The technical assistance team must include  
12 experienced staff from successfully operating lead agencies  
13 and departmental staff.

14 (f) Other than an entity to which s. 768.28 applies,  
15 any eligible lead community-based provider, as defined in  
16 paragraph (c), or its employees or officers, except as  
17 otherwise provided in paragraph (g), must, as a part of its  
18 contract, obtain a minimum of \$1 million per claim/\$3 million  
19 per incident in general liability insurance coverage. The  
20 eligible lead community-based provider must also require that  
21 staff who transport client children and families in their  
22 personal automobiles in order to carry out their job  
23 responsibilities obtain minimum bodily injury liability  
24 insurance in the amount of ~~\$25,000~~~~\$100,000~~ per claim, \$50,000  
25 ~~\$300,000~~ per incident, on their personal automobiles. In any  
26 tort action brought against such an eligible lead  
27 community-based provider or employee, net economic damages  
28 shall be limited to \$1 million per liability claim and \$25,000  
29 ~~\$100,000~~ per automobile claim, including, but not limited to,  
30 past and future medical expenses, wage loss, and loss of  
31 earning capacity, offset by any collateral source payment paid

1 or payable. In any tort action brought against such an  
2 eligible lead community-based provider, noneconomic damages  
3 shall be limited to \$200,000 per claim. A claims bill may be  
4 brought on behalf of a claimant pursuant to s. 768.28 for any  
5 amount exceeding the limits specified in this paragraph. Any  
6 offset of collateral source payments made as of the date of  
7 the settlement or judgment shall be in accordance with s.  
8 768.76. The lead community-based provider shall not be liable  
9 in tort for the acts or omissions of its subcontractors or the  
10 officers, agents, or employees of its subcontractors.

11 (h) Any subcontractor of an eligible lead  
12 community-based provider, as defined in paragraph (c), which  
13 is a direct provider of foster care and related services to  
14 children and families, and its employees or officers, except  
15 as otherwise provided in paragraph (g), must, as a part of its  
16 contract, obtain a minimum of \$1 million per claim/\$3 million  
17 per incident in general liability insurance coverage. The  
18 subcontractor of an eligible lead community-based provider  
19 must also require that staff who transport client children and  
20 families in their personal automobiles in order to carry out  
21 their job responsibilities obtain minimum bodily injury  
22 liability insurance in the amount of \$25,000 ~~\$100,000~~ per  
23 claim, \$50,000 ~~\$300,000~~ per incident, on their personal  
24 automobiles. In any tort action brought against such  
25 subcontractor or employee, net economic damages shall be  
26 limited to \$1 million per liability claim and \$25,000 ~~\$100,000~~  
27 per automobile claim, including, but not limited to, past and  
28 future medical expenses, wage loss, and loss of earning  
29 capacity, offset by any collateral source payment paid or  
30 payable. In any tort action brought against such  
31 subcontractor, noneconomic damages shall be limited to

1 \$200,000 per claim. A claims bill may be brought on behalf of  
2 a claimant pursuant to s. 768.28 for any amount exceeding the  
3 limits specified in this paragraph. Any offset of collateral  
4 source payments made as of the date of the settlement or  
5 judgment shall be in accordance with s. 768.76.

6 (3)(a) In order to help ensure a seamless child  
7 protection system, the department shall ensure that contracts  
8 entered into with community-based agencies pursuant to this  
9 section include provisions for a case-transfer process to  
10 determine the date that the community-based agency will  
11 initiate the appropriate services for a child and family. This  
12 case-transfer process must clearly identify the closure of the  
13 protective investigation and the initiation of service  
14 provision. At the point of case transfer, and at the  
15 conclusion of an investigation, the department must provide a  
16 complete summary of the findings of the investigation to the  
17 community-based agency.

18 (b) The contracts must also ensure that each  
19 community-based agency shall furnish information on its  
20 activities in all cases in client case records. ~~A provider may  
21 not discontinue services on any voluntary case without prior  
22 written notification to the department 30 days before planned  
23 case closure. If the department disagrees with the recommended  
24 case closure date, written notification to the provider must  
25 be provided before the case closure date.~~

26 (c) The contract between the department and  
27 community-based agencies must include provisions that specify  
28 the procedures to be used by the parties to resolve  
29 differences in interpreting the contract or to resolve  
30 disputes as to the adequacy of the parties' compliance with  
31 their respective obligations under the contract.

1           (d) Each contract with an eligible lead  
2 community-based provider shall provide for the payment by the  
3 department to the provider of a reasonable administrative cost  
4 in addition to funding for the provision of services.

5           (4)(a) The department shall establish a quality  
6 assurance program for privatized services. The quality  
7 assurance program shall be based on standards established by a  
8 national accrediting organization such as the Council on  
9 Accreditation of Services for Families and Children, Inc.  
10 (COA) or CARF--the Rehabilitation Accreditation Commission.  
11 The department may develop a request for proposal for such  
12 oversight. This program must be developed and administered at  
13 a statewide level. The Legislature intends that the department  
14 be permitted to have limited flexibility to use funds for  
15 improving quality assurance. To this end, ~~effective January 1,~~  
16 ~~2000,~~the department may transfer up to 0.125 percent of the  
17 total funds from categories used to pay for these  
18 contractually provided services, but the total amount of such  
19 transferred funds may not exceed \$300,000 in any fiscal year.  
20 When necessary, the department may establish, in accordance  
21 with s. 216.177, additional positions that will be exclusively  
22 devoted to these functions. Any positions required under this  
23 paragraph may be established, notwithstanding ss.  
24 216.262(1)(a) and 216.351. The department, in consultation  
25 with the community-based agencies that are undertaking the  
26 privatized projects, shall establish minimum thresholds for  
27 each component of service, consistent with standards  
28 established by the Legislature and the Federal Government.  
29 Each program operated under contract with a community-based  
30 agency must be evaluated annually by the department. The  
31 department shall submit an annual report regarding quality

1 performance, outcome measure attainment, and cost efficiency  
2 to the President of the Senate, the Speaker of the House of  
3 Representatives, the minority leader of each house of the  
4 Legislature, and the Governor no later than January 31 of each  
5 year for each project in operation during the preceding fiscal  
6 year.

7 (b) The department shall use these findings in making  
8 recommendations to the Governor and the Legislature for future  
9 program and funding priorities in the child welfare system.

10 Section 3. Section 409.16745, Florida Statutes, is  
11 amended to read:

12 409.16745 Community partnership matching grant  
13 program.--It is the intent of the Legislature to improve  
14 services and local participation in community-based care  
15 initiatives by fostering community support and providing  
16 enhanced prevention and in-home services, thereby reducing the  
17 risk otherwise faced by lead agencies. There is established a  
18 community partnership matching grant program to be operated by  
19 the Department of Children and Family Services for the purpose  
20 of encouraging local participation in community-based care for  
21 child welfare. Any children's services council or other local  
22 government entity that makes a financial commitment to a  
23 community-based care lead agency is eligible for a grant upon  
24 proof that the children's services council or local government  
25 entity has provided the selected lead agency at least \$250,000  
26 ~~\$825,000~~ in start up funds, from any local resources otherwise  
27 available to it. The total amount of local contribution may be  
28 matched on a two-for-one basis up to a maximum amount of \$2  
29 million per council or local government entity. Awarded  
30 matching grant funds may be used for any prevention or in-home  
31 services provided by the children's services council or other

1 local government entity that meets  
2 temporary-assistance-for-needy-families' eligibility  
3 requirements and can be reasonably expected to reduce the  
4 number of children entering the child welfare system. To  
5 ensure necessary flexibility for the development, start up,  
6 and ongoing operation of community-based care initiatives, the  
7 notice period required for any budget action authorized by the  
8 provisions of s. 20.19(5)(b), is waived for the family safety  
9 program; however, the Department of Children and Family  
10 Services must provide copies of all such actions to the  
11 Executive Office of the Governor and Legislature within 72  
12 hours of their occurrence. Funding available for the matching  
13 grant program is subject to legislative appropriation of  
14 nonrecurring ~~temporary-assistance-for-needy-families~~ funds  
15 provided for the purpose.

16 Section 4. Subsection (3) of section 409.175, Florida  
17 Statutes, is amended to read:

18 409.175 Licensure of family foster homes, residential  
19 child-caring agencies, and child-placing agencies.--

20 (3)(a) The total number of children placed in each  
21 family foster home shall be based on the recommendation of the  
22 department, or the community-based care lead agency where one  
23 is providing foster care and related services, based on the  
24 needs of each child in care, the ability of the foster family  
25 to meet the individual needs of each child, including any  
26 adoptive or biological children living in the home, the amount  
27 of safe physical plant space, the ratio of active and  
28 appropriate adult supervision, and the background, experience,  
29 and skill of the family foster parents.

30 (b) If the total number of children in a family foster  
31 home will exceed five, including the family's own children, an

1 assessment ~~a comprehensive behavioral health assessment~~ of  
2 each child to be placed in the home must be completed by a  
3 family services counselor and approved in writing by the  
4 counselor's supervisor prior to placement of any additional  
5 children in the home, except that, if the placement involves a  
6 child whose sibling is already in the home or a child who has  
7 been in placement in the home previously, the assessment must  
8 be completed within 72 hours after placement. The  
9 ~~comprehensive behavioral health~~ assessment must ~~comply with~~  
10 ~~Medicaid rules and regulations,~~ assess and document the  
11 mental, physical, and psychosocial needs of the child, and  
12 recommend the maximum number of children in a family foster  
13 home that will allow the child's needs to be met.

14 (c) For any licensed family foster home, the  
15 appropriateness of the number of children in the home must be  
16 reassessed annually as part of the relicensure process. For a  
17 home with more than five children, if it is determined by the  
18 licensure study at the time of relicensure that the total  
19 number of children in the home is appropriate and that there  
20 have been no substantive licensure violations and no  
21 indications of child maltreatment or child-on-child sexual  
22 abuse within the past 12 months, the relicensure of the home  
23 shall not be denied based on the total number of children in  
24 the home.

25 Section 5. This act shall take effect July 1, 2003.

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SENATE SUMMARY

Requires state agencies to establish programs and mechanisms to maximize the use of local funding for federal programs. Requires reports to the Legislature. Provides for certain funds for legal services to be transferred to community-based providers. Decreases the amount of automobile liability insurance required for certain providers. Decreases the amount of economic damages which may be claimed. Revises certain assessments required prior to placing a child in a family foster home. (See bill for details.)