

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 1466

SPONSOR: Senator Lynn

SUBJECT: Administration of Public Assistance Eligibility

DATE: February 22, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Dowds</u>	<u>Whiddon</u>	<u>CF</u>	<u>Favorable</u>
2.	_____	_____	<u>GO</u>	_____
3.	_____	_____	<u>CM</u>	_____
4.	_____	_____	<u>AHS</u>	_____
5.	_____	_____	<u>AP</u>	_____
6.	_____	_____	_____	_____

I. Summary:

Senate Bill 1466 requires that the Department of Children and Families use a competitive bid process to contract in two pilot districts for the performance of certain eligibility determination functions for public assistance programs. An assessment of certain elements of service delivery is to be conducted, and the Governor is to provide direction as to any expansion to additional districts of the contracting for eligibility determination, unless reversed by the Legislature. Department employees are to be provided an opportunity to participate in the bid process. Reports are required to be submitted to the Governor and Legislature on the findings of the assessments, and annual reports are required for 3 years if the contracting of eligibility determination is continued or expanded.

II. Present Situation:

The Economic Self-Sufficiency (ESS) program of the Department of Children and Families assists low income individuals and families to access a variety of services to help them meet basic needs. The major services for which ESS determines eligibility are as follows:

- Food stamps which is 100 percent funded by the federal government with the state and federal governments equally sharing the administrative costs.
- Temporary Assistance for Needy Families (TANF) which provides cash benefits to certain low-income individuals including adults with dependent children and children residing in foster care and is funded with state and federal funds.
- Medicaid which provides health care services to certain individuals who meet the established income and assets criteria and is also state and federally funded.
- Refugee cash assistance which is available to refugee adults and families and is 100 percent federally funded.

- Optional State Supplementation which is a cash assistance program to help pay for community alternative living arrangements and prevent placement in an institution and is primarily state funded.
- Home Care for Disabled Adults which provides a monthly payment to persons who provide home care for eligible disabled adults less than 65 years of age and is also primarily state funded.

An Internal Audit report of the Office of Inspector General of the Department of Children and Families reported that ESS employs more than 7,367 individuals. During FY 2002-2003, ESS staff processed more than 1.4 million eligibility applications and assisted more than 2.7 million clients by providing approximately \$13 billion in benefits. The operating expenses incurred during this period exceeded \$331 million (*Economic Self-Sufficiency Eligibility Process: A Study in Conjunction with DCF Reengineering Initiatives*, Office of Inspector General, Department of Children and Families, November 26, 2003).

In 1997, the Florida Legislature directed the Department of Children and Families to examine service improvements and efficiencies that could be achieved by privatizing a number of service delivery functions, including the eligibility determination for Medicaid, food stamps, and TANF. While TANF allowed for this privatization, federal regulations for food stamps and Medicaid prohibited the complete outsourcing of the eligibility determination process. Specifically, federal regulation for both food stamps (7 C.F.R. Part 272.4) and Medicaid (42 U.S.C. 1396a(a)(4)) require that a public employee perform the actual eligibility determination for these benefits. The department has requested waivers of this requirement for both programs. While a waiver for the Medicaid program has not been approved, a waiver of this requirement was granted by the United States Department of Agriculture (USDA) for a limited number of food stamp clients in six sites. The approval was contingent upon the department conducting a 5-year evaluation of the pilot programs.

One pilot project implemented in response to the 1997 legislative directive was in Palm Beach County and began in 2000. A solution developed by the Palm Beach county pilot project to address, in part, these federal restrictions was for the non-governmental agency staff to perform the preliminary eligibility determination for the programs with a department employee providing the final official eligibility authorization. Food stamp eligibility determination was performed entirely by department employees.

The 2003 Florida Legislature provided further direction relative to outsourcing the eligibility determination function for Medicaid, food stamps, and TANF. Specifically, proviso language provided in the General Appropriations Act for 2003-2004 directed the department to develop a plan for achieving efficiencies in the eligibility determination activity to be submitted by October 1, 2003. This plan was to present proposals as follows:

- to “outsource the comprehensive eligibility determination functions currently handled by the department during Fiscal Year 2003-2004 to the fullest extent permitted through the waiver of federal regulations; or”
- to “develop alternative service delivery and administrative efficiencies to utilize in Fiscal Year 2003-2004 which reduce costs; or”
- to “achieve a combination of the previous two approaches.”

The Department of Children and Families submitted the plan required by the 2003 proviso titled “Modernization Initiative for Economic Self-Sufficiency.” The report detailed the findings of the internal audit of the department’s Office of Inspector General relative to aspects of the system that could benefit from a simplified policy and an organizational and process reengineering. The recommendations of the Inspector General included simplifying the ESS policy manual, establishing appropriate lines of authority between the central office and field offices, addressing duplicative policy administration efforts, enhancing front-end prevention, evaluating manager to caseworker ratio, assessing clerical activity for automation and savings opportunities, reducing costly case worker turn-over, addressing the inefficient procedures within the ESS process, assessing the validation methodology for client information, and defining the ESS eligibility caseworker’s role. The department’s plan to address these issues, as well as the directive of the proviso as presented in this plan, was to simplify the ESS policy and to bid out some of the following innovations:

- Eligibility Screening System to provide for
 - A common intake application process to eliminate duplication in data collection.
 - An integrated database structure which allows for real-time connectivity to existing public federal, state, and local databases for easier, more efficient verification of client data.
- Call Center/Change Center to provide for
 - An interactive voice response unit to handle basic informational client inquiries.
 - A centralized call-center to address all non face-to-face related client issues.
- Internet innovations to provide for
 - Online eligibility application submissions.
 - Touch screen eligibility screening system.
 - Kiosks with web access located in key locations.
 - Customer friendly design with basic audible and visual instructions.

According to the plan, the department would use the basic approach applied in the Palm Beach pilot which had the contractor performing the initial front end processing for eligibility determination and the DCF employee reviewing work and providing the official approval to meet the federal requirement. However, this approach would be applied not only to TANF and Medicaid eligibility but also to food stamps. This approach was reported as meeting the federal requirement that a government employee must approve eligibility so that no waivers would be necessary to perform in this manner statewide.

The Department of Children and Families further reported in its department analysis of SB 1466 that its goal for the ESS program is to provide a system that is consumer friendly, cost effective, streamlined in policy and procedures; offers improved client access to services; and allows staff to focus on client need through streamlining and modernizing the eligibility determination process, including the technological resources, without increasing the amount of state funding. To achieve these goals, the department plans to offer the private sector an opportunity to submit proposals for the operation of the ESS eligibility process. Aspects of the process to be addressed in the proposals include basically “all program operations, staffing, training of staff, and the technology resources to be used in the determination process.”

The employees of the Department of Children and Families have been developing an employee plan for achieving the required efficiencies. It appears from the *Modernization Initiative for*

Economic Self-Sufficiency report that the employees' plan would be considered with the private sector plans in the competitive procurement process. However, the department has since reported that the employees' plan will be compared with the selected private sector plan after the competitive procurement process at which time a decision will be made as to whether to contract with the private sector vendor or utilize the employees' plan.

The timeframe for implementation of the department's plan includes releasing a Request for Information the end of February to receive comments on the program requirements and draft solicitation document and then issuing the formal solicitation document the beginning of April with execution of the contract anticipated for July 2004. Consideration is being given to either issuing one contract for the entire state or separate contracts based on zones or larger geographic areas. At this time, the department estimates a 5-year contract for approximately \$1.2 billion (or \$200 to \$250 million per year). The department reports that the plan for meeting the requirements of the 2003 proviso has continued to evolve. In particular, the department reports that the USDA has very recently offered to expedite review of a waiver request from Florida that would allow the department to use the private sector for the entire eligibility determination process on a statewide basis and not require as stringent an evaluation as initially required for the six site demonstration project. The department reports it intends to develop such a waiver which would eliminate the need for any public employee role in the determination of eligibility, including DCF giving final approval.

No other state has contracted eligibility determination for Medicaid and food stamps to the private sector (Center for Budget and Policy Priorities). Concerns have been raised that any privatization effort should preserve the duty of the state to assist the low-income persons intended to be served as it incorporates private sector practices in the delivery of these services. The Food Stamp laws and regulations impose a very complex scheme of requirements on states that encourage practices to ensure that the low-income individuals and families receive the food stamps they need. Some of these requirements address easy access to the food stamp program; how to best serve special needs populations such as low-income households with elderly and disabled members, families in rural areas, homeless individuals, and households speaking a language other than English; confidentiality of the information provided; and fair hearings or adequate due process in response to program decisions. Advocates have pointed to the importance of knowing how these requirements will be met before shifting the functions to the private sector and providing for strong accountability during the process to ensure the requirements continue to be met. One method identified to provide the accountability, as well as determine the true effectiveness and efficiencies of privatizing the eligibility determination functions, is to use the demonstration waiver granted by USDA for food stamp eligibility determination.

Chapter 287, F.S., requires competitive procurement by state agencies of commodities and contractual services. An agency contracting for the purchase of commodities or contractual services in excess of \$25,000 must use one of the following procurement methods which differ as to bidding and awarding requirements: Invitation to bid (ITB), Request for proposals (RFP), and Invitation to negotiate (ITN) (s. 287.057, F.S.). To allow for circumstances wherein procurement of commodities or services with an ITB, RFP, or ITN is not possible, s. 287.057, F.S., also permits emergency and single source procurements. Further, the chapter exempts certain contractual services from its competitive procurement requirements. While this chapter

does not specifically set forth a process that provides for consideration of both private sector and state agency proposals to deliver a service, it appears that this possibility was contemplated by the Legislature in its creation of the State Council on Competitive Government (s. 14.203, F.S.). The council is authorized in this section to identify commercial activities currently being performed by state agencies that may be better provided by requiring competition, including competition with private sources or other state agency service providers. The section specifically authorizes the council to “require the state agency to encourage state employees to organize and submit a bid for the identified state service” (s. 14.203(3)(j), F.S.).

Section 216.0446, F.S., creates the Technology Review Workgroup to provide for an independent review of agencies’ long range program plans and legislative budget requests relating to information technology and make recommendations to the Legislative Budget Commission. The Technology Review Workgroup is also responsible for contracting with the project monitor for those information resource management projects designated in the General Appropriations Act for special monitoring, including for FY 2003-2004 initiatives involving the FLORIDA system.

III. Effect of Proposed Changes:

Senate Bill 1466 requires that the Department of Children and Families use a competitive bid process to contract in two pilot districts for the performance of certain eligibility determination functions for public assistance programs. An assessment of certain elements of service delivery is to be conducted, and the Governor is to provide direction as to any expansion to additional districts of the contracting for eligibility determination, unless reversed by the Legislature. Department employees are to be provided an opportunity to participate in the bid process. Reports are required to be submitted to the Governor and Legislature on the findings of the assessments, and annual reports are required for 3 years if the contracting of eligibility determination is continued or expanded.

Senate Bill 1466 directs the Department of Children and Families to competitively bid the eligibility determination activities for food stamps, Medicaid, TANF, and other public assistance programs under its jurisdiction to one or more providers. Initially, these services are to be performed by the selected providers in only two pilot districts, one predominantly rural district and one predominantly urban district. Contracts are to be effective September 30, 2004. The competitive bid process used by the department is required to allow employees of the department performing this eligibility determination process the opportunity to submit a proposal. The department is directed to allow employees to organize, to provide the employees with legal procurement and fiscal expertise, and to allow employees to select consultants to assist them in preparing the bid offer. State funds may be used to compensate consultants in assisting employees to prepare a bid response. The bill provides for the employees’ use of the consultants notwithstanding s. 287.057, F.S., which permits the employees to select a consultant whose cost may exceed the \$25,000 threshold without using the required formal competitive procurement process to purchase the consultant service. The bill also requires the approval of the Technology Review Workgroup before implementing any technological change to the FLORIDA system that resulted from this competitive procurement process.

The department is directed to assess the quality of the services delivered in the two pilot districts prior to contracting for the conducting of eligibility determination services in additional districts. The assessment by the department is to provide a comparison of data from before the outsourcing with data from after the service delivery was contracted. This data comparison is to consider each of the following elements: error rates, timeliness of eligibility determination, customer satisfaction, and costs associated with operation of the eligibility program. The assessment is also to determine if the technological changes resulted in improvements to program efficiency. The department is required to prepare two reports for the Governor, President of the Senate, and Speaker of the House of Representatives. The first report is an initial status report which is due December 30, 2004 and is to describe the implementation of the contracted eligibility determination services in the two districts. The second and final report which is due January 30, 2005 is to include the assessment of the quality of the services delivered in the two districts and a plan for future implementation, if recommended. The plan for future implementation is required to include a timeframe and proposed roll-out schedule by district. The bill authorizes the Governor to provide direction to the department regarding expanding the privately performed eligibility determination to additional districts, unless countermanded by the Legislature. If the initiative to privately perform eligibility determinations continues beyond June 30, 2005, additional reports to the Governor and Legislature are required to be submitted semi-annually beginning January 1, 2006, and to continue until either the initiative has ceased or has been in place statewide for three years. This report is to address, at a minimum, the elements required for the assessment of the quality of services delivered by the two pilot districts.

The bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The strategies instituted for performing the eligibility determination functions through the proposed contracting can either enhance the ability of low-income individuals and families to receive the food stamps they need or deter the receipt of the food stamps.

C. Government Sector Impact:

The Department of Children and Families reports that it is impossible to estimate the costs of this legislation since any proposed technology or programmatic changes are unknown at this time. However, this bill does not alter the requirements for technological or programmatic changes from that proposed by the department which, as identified in the bill analysis, are being accomplished without increasing the amount of state funds. It is, therefore, unclear how this bill could impose costs that were not already potentially inherent in the original proposal to competitively procure.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Department of Children and Families reports that the requirement for the two pilots in lieu of the current plan to implement the modernization initiative statewide will limit the implementation of the needed improvements and cost-saving efficiencies. The required semi-annual reporting and evaluation will limit the efficiencies and cost effectiveness that may be proposed by the private sector. Finally, the department reports that the required approval of the Technology Review Workgroup limits their ability to make the final decisions necessary for the effective operation of the eligibility determination database and computerized authorization system. The department proposes that the Technology Review Workgroup should instead be involved in the review of the automation changes. It appears, however, that the limitation of the modernization initiative is only for a period of approximately one year, during which time the potential impact of the initiative on important client outcomes can be evaluated. Also, it appears that the Legislature has a history of utilizing the Technology Review Workgroup to provide technical assistance as to the ramifications of proposals that interface with the FLORIDA system. Given the emphasis on the role of technology in improving the ESS program and the required interface with the FLORIDA system of the innovations proposed to be privatized, it would seem prudent to ensure that the proposals do not impose a cost on the FLORIDA system that is not recognized in advance.

The office of Food and Nutrition Services (FNS) of the United States Department of Agriculture reports that the waiver process has historically been the mechanism for testing out more effective and efficient strategies for operating the food stamp program. Through a waiver process, an evaluation would be conducted on the impact of the new strategies on program access, error rates, requests for fair hearing, quality control, claims of fraud, and program costs. The Department of Children and Families has discussed with USDA the proposed concept of using non-governmental employees for a number of the eligibility determination functions with public employees providing the final authorization. The Food and Nutrition Services offices has

reported it is not certain that the proposed concept complies with the requirement regarding public employees determining eligibility.

VIII. Amendments:

None.

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