

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 440

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

SUBJECT: Health Care

DATE: March 9, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Munroe	Wilson	HC	Favorable/CS
2.	_____	_____	ED	_____
3.	_____	_____	JU	_____
4.	_____	_____	AAV	_____
5.	_____	_____	AP	_____
6.	_____	_____	RC	_____

I. Summary:

The bill deletes a licensure requirement for nurse registries that a registered nurse must make monthly visits to the patient’s home to assess the patient’s condition and quality of care being provided by a certified nursing assistant or home health aide. The bill makes the pilot program that provides personal care attendants for individuals who have spinal cord injuries a permanent program. It revises the powers and duties of the Department of Health and the Florida Association of Centers for Independent Living to administer the program. Criteria for eligibility for persons to participate in the program are revised. The bill increases the personal care attendant program’s share of revenue collected from the tax collection enforcement diversion program from 25 to 50 percent. The Florida Endowment Foundation for Vocational Rehabilitation (the Able Trust) must select the entity to administer the personal care attendant program. Participating governmental units will be judicial circuits instead of counties to reflect the participation of the state attorney’s office in each judicial circuit currently implementing the pilot program and in the Fourth Judicial Circuit (Duval County).

This bill amends sections 400.506, 413.402 and 413.4021, Florida Statutes. The bill also amends section 3 of chapter 2002-286, Laws of Florida.

II. Present Situation:

Personal Care Attendant Pilot Program

Chapter 2002-286, Laws of Florida, codified at ss. 413.402 and 413.4021, F.S., established the personal care attendant pilot program to assist eligible persons who are disabled due to a traumatic spinal cord injury to return to work in their communities by providing personal care attendants. The Florida Association of Centers for Independent Living (FACIL), in a

collaborative effort with the Department of Revenue (DOR), the Brain and Spinal Cord Injury Program in the Department of Health (DOH), the Florida Medicaid program in the Agency for Health Care Administration (AHCA), the Florida Endowment Foundation for Vocational Rehabilitation (the Able Trust), and the Division of Vocational Rehabilitation of the Department of Education (DOE), was responsible for developing the pilot program.

The law required FACIL to establish procedures for selecting eligible participants and to make recommendations for the placement of such participants into appropriate work-related training programs. Eligibility is extended to persons who are:

- At least 18 years old and significantly disabled due to a traumatic spinal cord injury;
- Eligible for training services from the Division of Vocational Rehabilitation; and
- Living in a nursing home or have moved out of a nursing home within the preceding 180 days due to participation in a Medicaid home and community-based waiver program targeted to persons with brain or spinal cord injuries.

Other duties conferred on FACIL to administer the pilot program include the development of a training program to prepare selected participants to manage their own personal care attendant and the development of a program to recruit, screen, and select candidates to be trained as personal care attendants. The services of a nurse registry licensed under s. 400.506, F.S., may be used to recruit and screen candidates to serve as personal care attendants under the pilot program and to act as a fiscal intermediary through which payments may be made to such candidates. ACHA is required to seek any federal waivers necessary to implement the pilot program.

The law required DOR, in coordination with FACIL and the Florida Prosecuting Attorneys Association, to select four counties in which to operate the pilot program. The following counties were selected: Miami-Dade, Broward, Palm Beach, and Hillsborough. The law required FACIL and the state attorney's offices in Duval County and the four pilot program counties to develop and implement a tax collection enforcement diversion program to collect revenue due from persons who have not remitted their collected sales tax.

Notwithstanding s. 212.20, F.S., 25 percent of the revenues collected through the tax collection enforcement diversion program are required to be deposited into the operating account of the Able Trust to implement the pilot program. For fiscal year 2003-2004 only, the Legislature adopted proviso in the Appropriations Act that increased the percentage of revenues deposited into the Able Trust fund from 25 to 50 percent for the personal care attendant pilot program. The pilot program may only use funds deposited into the operations account. The Legislature appropriated \$250,000 from the Brain and Spinal Cord Injury Program Trust Fund in DOH during fiscal year 2002-2003 for the development of the personal care attendant pilot program. The pilot program counties are required to make a \$50,000 loan to the trust fund.

According to DOR, the following collections under the tax collection enforcement diversion program have been made as of October 30, 2003:

County Personal Care Attendant Pilot Program	Total Collected	General Revenue (Fifty Percent)	Personal Care Attendant Pilot Program (Endowment)
Duval	\$95,338.09	\$49,121.60	\$46,216.49
Broward	4,860.10	2,430.05	2,430.05
Miami-Dade	\$40,445.14	\$20,222.57	\$20,222.57
Palm Beach	\$0.00	\$0.00	\$0.00
Hillsborough	\$609.61	\$304.81	\$304.81
TOTAL	\$141,252.94	\$72,079.03	\$69,173.91

Brain and Spinal Cord Injury Program

The Brain and Spinal Cord Injury (BSCI) Program within DOH provides a statewide coordinated infrastructure to provide access to medical care and rehabilitation for individuals with moderate to severe traumatic brain and spinal cord injuries which enables individuals to return to community settings. Via a network of case managers, the BSCI program provides acute care, rehabilitation, transitional living and assistive technology, home and vehicle modification, and institutional transition services.¹ The BSCI program refers individuals who have the potential to obtain gainful employment directly to the Division of Vocational Rehabilitation of DOE. Under s. 381.77, F.S., the BSCI program conducts annual nursing home surveys to identify individuals who reside in nursing homes and who may have the potential for rehabilitation and community reintegration.

The Medicaid Home and Community-based Waiver Program implemented by DOH’s BSCI program provides basic and essential long-term community-based support services necessary to ensure an individual’s health and safety in the community, prevent institutionalization, and provide support needed to transition individuals currently living in nursing homes who have the potential to be reintegrated back into the community. Services under the waiver can also be used to let individuals make a transition from institutions and to maintain any needed support until they are accepted into a vocational rehabilitation training program.

Nurse Registries

The Agency for Health Care Administration licenses home health agencies and nurse registries under part IV of chapter 400, F.S. Section 400.506(10), F.S., requires a registered nurse from a nurse registry to make monthly visits to a patient’s home to assess the patient’s condition and quality of care provided by the certified nursing assistant or home health aide referred by the registry to the patient. The registered nurse must report to the attending physician and the nurse registry any condition that requires further medical attention. The assessment becomes a part of the patient’s file with the nurse registry and may be reviewed by AHCA as part of the agency’s survey of the nurse registry.

III. Effect of Proposed Changes:

Section 1. Amends s. 400.506, F.S., to eliminate the requirement that a registered nurse must make monthly visits to a patient’s home to assess the patient’s condition and quality of care

¹ See ss. 381.739 – 381.79, F.S.

provided by the certified nursing assistant or home health aide. The requirement for the registered nurse to report to the attending physician and the nurse registry any condition that requires further medical attention is deleted. The requirement for such assessment to become a part of the patient's file with the nurse registry and its review by AHCA as part of the agency's survey is deleted.

Section 2. Amends s. 413.402, F.S., to make the personal care attendant pilot program permanent. The duties of collaborating agencies are revised to require FACIL, in conjunction with DOH's BSCI program to develop the personal care attendant program and to jointly develop memoranda of understanding with DOR, the Medicaid program in AHCA, the Able Trust, and the Division of Vocational Rehabilitation of DOE.

Eligibility requirements are revised to extend eligibility to individuals who must:

- Be at least 18 years old and significantly disabled due to a traumatic spinal cord injury;
- Require a personal care attendant for bathing, dressing, bowel and bladder management, and transportation;
- Require a personal care attendant to obtain or maintain substantial gainful employment;
- Be able to hire and supervise a personal care attendant; and
- Be living in a nursing home, have moved out of a nursing home within the preceding 180 days due to participation in a Medicaid home and community-based waiver program targeted to persons with brain or spinal cord injuries, or presently be employed but due to loss of a caregiver will lose employment and potentially return to a nursing home.

Eligibility criteria for the program are further revised to delete the requirement that individuals be eligible for training services from the Division of Vocational Rehabilitation.

FACIL and DOH in cooperation with the Able Trust must develop a program to recruit, screen, and select candidates to be trained as personal care attendants. The bill requires FACIL and DOH in cooperation with the Able Trust: to seek federal waivers to implement the personal care attendant program, to develop training program for personal care attendants, and establish procedures for selecting persons eligible to participate in the personal care attendant program. FACIL and DOH, in cooperation with the Division of Vocational Rehabilitation of DOE must assess the selected participants and make recommendations for their placement into work-related training programs.

Participating governmental units will be judicial circuits instead of counties to reflect the participation of the state attorney's office in each judicial circuit.

The bill requires DOH to establish a personal care attendant program oversight workgroup to oversee the implementation and administration of the program. The workgroup must be composed of one representative from the following groups: the BSCI program in DOH, DOR, and the Florida Medicaid Program in AHCA, the Able Trust, FACIL, and the Division of Vocational Rehabilitation of DOE. Two members of the workgroup must be persons who have traumatic spinal cord injuries or are family members of persons with traumatic spinal cord injuries. Obsolete language is eliminated that refers to a report due to Legislature by March 1,

2003, regarding an implementation plan for the pilot program, and requirements for the pilot program to be implemented by July 1, 2003.

Section 3. Amends s. 413.4021, F.S., to increase the percentage of collections from the tax collection enforcement diversion program that fund the personal care attendant program from 25 to 50 percent. The Able Trust must select the entity to administer the personal care attendant program. Conforming changes are made to provide that participating governmental units will be judicial circuits instead of counties to reflect the participation of the state attorney's office in each judicial circuit currently implementing the pilot program and in the Fourth Judicial Circuit (Duval County).

Section 4. Amends s. 3 of chapter 2002-286, L.O.F., to change the participating governmental units from counties to judicial circuits where the pilot programs are located and the Fourth Judicial Circuit (Duval, Nassau, and Clay counties) for the purpose of repayment of the sum of \$250,000 to the BSCI program trust fund.

Section 5. Provides an effective date of July 1, 2004.

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, 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 Article 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:

The bill does not propose any additional taxes or fees; rather, the bill would redirect 50 percent of the sales tax collections obtained through the tax collection enforcement diversion program to the personal care attendant program. The bill will decrease the amount of sales tax collections available to the General Revenue Fund by continuing the diversion of the proceeds from the diversion programs in each judicial circuit currently implementing the pilot program and in the Fourth Judicial Circuit (Duval County). The state-wide fiscal impact would be indeterminate.

B. Private Sector Impact:

The bill may encourage savings by retraining individuals with spinal cord injuries to return to employment.

C. Government Sector Impact:

The bill decreases the amount of sales tax collections available to the General Revenue Fund.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

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