

CHAMBER ACTION

1 The Governmental Operations Committee recommends the following:

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3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to the Department of Elderly Affairs;  
7 amending s. 430.04, F.S.; requiring the Department of  
8 Elderly Affairs to conduct an evaluation prior to  
9 rescinding designation of or taking certain measures  
10 against an area agency on aging; providing circumstances  
11 under which the department may terminate an area agency on  
12 aging contract; authorizing the department to contract  
13 with certain entities to provide programs and services  
14 under certain circumstances; requiring the department to  
15 initiate a competitive procurement process to replace an  
16 area agency on aging within a specified time period;  
17 providing for certain contracts and agreements to be  
18 assignable to the department and, subsequently, to an  
19 entity selected to replace the area agency on aging;  
20 providing an effective date.

21  
22 Be It Enacted by the Legislature of the State of Florida:  
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24 Section 1. Subsection (2) of section 430.04, Florida  
25 Statutes, is amended, subsections (3) through (16) are  
26 renumbered as subsections (4) through (17), respectively, and a  
27 new subsection (3) is added to that section, to read:

28 430.04 Duties and responsibilities of the Department of  
29 Elderly Affairs.--The Department of Elderly Affairs shall:

30 (2) Be responsible for ensuring that each area agency on  
31 aging operates in a manner to ensure that the elderly of this  
32 state receive the best services possible. The department shall  
33 rescind designation of an area agency on aging or take  
34 intermediate measures against the agency, including corrective  
35 action, unannounced special monitoring, temporary assumption of  
36 operation of one or more programs by the department, placement  
37 on probationary status, imposing a moratorium on agency action,  
38 imposing financial penalties for nonperformance, or other  
39 administrative action pursuant to chapter 120, if, after an  
40 evaluation, the department finds that:

41 (a) An intentional or negligent act of the agency has  
42 materially affected the health, welfare, or safety of clients,  
43 or substantially and negatively affected the operation of an  
44 aging services program;~~;~~

45 (b) The agency lacks financial stability sufficient to  
46 meet contractual obligations or that contractual funds have been  
47 misappropriated;~~;~~

48 (c) The agency has committed multiple or repeated  
49 violations of legal and regulatory requirements or department  
50 standards;~~;~~

51 (d) The agency has failed to continue the provision or  
 52 expansion of services after the declaration of a state of  
 53 emergency;~~;~~

54 (e) The agency has exceeded its authority or otherwise  
 55 failed to adhere to the terms of its contract with the  
 56 department or has exceeded its authority or otherwise failed to  
 57 adhere to the provisions specifically provided by statute or  
 58 rule adopted by the department;~~;~~

59 (f) The agency has failed to properly determine client  
 60 eligibility as defined by the department or efficiently manage  
 61 program budgets; or

62 (g) The agency has failed to implement and maintain a  
 63 department-approved client grievance resolution procedure.

64 (3) If the department takes an intermediate measure  
 65 against an area agency on aging as provided in subsection (2)  
 66 and the department determines, at least 90 days after such  
 67 measure is taken, that the agency has failed to effectively  
 68 plan, fund, or administer contracts for programs and services  
 69 not funded by the federal Older Americans Act, the department  
 70 may terminate an agency's contract for such programs or  
 71 services. Notwithstanding any law to the contrary, in the event  
 72 of the termination of a contract with an agency, the department  
 73 shall contract, in accordance with chapter 287, with an entity  
 74 to plan, fund, and administer the programs and services  
 75 previously under contract in the affected planning and service  
 76 area. The department may directly provide the affected program  
 77 or service for a limited period of time but shall initiate a  
 78 competitive procurement process to replace the agency within 180

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79 | days after the termination of the agency's contract. Any  
80 | contract or referral agreement effective on or after July 1,  
81 | 2006, between an area agency on aging and a lead agency or  
82 | service provider must be assignable to the department and  
83 | subsequently to an entity competitively selected under this  
84 | subsection.

85 |       Section 2. This act shall take effect July 1, 2006.