

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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The Conference Committee on HB 5011 offered the following:

Conference Committee Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Subsection (7) of section 409.1671, Florida Statutes, is amended to read:

409.1671 Foster care and related services; outsourcing.--

(7) ~~The Florida Coalition for Children, Inc., in consultation with the department, shall develop a plan based on an independent actuarial study regarding the long term use and structure of a statewide community based care risk pool for the protection of eligible lead community based providers, their subcontractors, and providers of other social services who contract directly with the department. The plan must also outline strategies to maximize federal earnings as they relate to the community based care risk pool. At a minimum, the plan must allow for the use of federal earnings received from child~~

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18 ~~welfare programs to be allocated to the community based care~~
 19 ~~risk pool by the department, which earnings are determined by~~
 20 ~~the department to be in excess of the amount appropriated in the~~
 21 ~~General Appropriations Act. The plan must specify the necessary~~
 22 ~~steps to ensure the financial integrity and industry standard~~
 23 ~~risk management practices of the community-based care risk pool~~
 24 ~~and the continued availability of funding from federal, state,~~
 25 ~~and local sources. The plan must also include recommendations~~
 26 ~~that permit the program to be available to entities of the~~
 27 ~~department providing child welfare services until full~~
 28 ~~conversion to community-based care takes place. The final plan~~
 29 ~~shall be submitted to the department and then to the Executive~~
 30 ~~Office of the Governor and the Legislative Budget Commission for~~
 31 ~~formal adoption before January 1, 2005. Upon approval of the~~
 32 ~~plan by all parties, the department shall issue an interest free~~
 33 ~~loan that is secured by the cumulative contractual revenue of~~
 34 ~~the community-based care risk pool membership, and the amount of~~
 35 ~~the loan shall equal the amount appropriated by the Legislature~~
 36 ~~for this purpose. The plan shall provide for a governance~~
 37 ~~structure that assures the department the ability to oversee the~~
 38 ~~operation of the community based care risk pool at least until~~
 39 ~~this loan is repaid in full.~~

40 (a) The department, in consultation with the Florida
 41 Coalition for Children, Inc., shall develop and implement a
 42 community-based care risk pool initiative to mitigate the
 43 financial risk to eligible lead community-based providers. This
 44 initiative shall include:

45 1. A risk pool application and protocol developed by the
 46 department that outline submission criteria, including, but not

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47 limited to, financial and program management, descriptive data
 48 requirements, and timeframes for submission of applications.
 49 Requests for funding from risk pool applicants shall be based on
 50 relevant and verifiable service trends and changes that have
 51 occurred during the current fiscal year. The application shall
 52 confirm that expenditure of approved risk pool funds by the lead
 53 community-based provider shall be completed within the current
 54 fiscal year.

55 2. A risk pool peer review committee, appointed by the
 56 secretary and consisting of department staff and representatives
 57 from at least three nonapplicant community-based care providers,
 58 that reviews and assesses all risk pool applications. Upon
 59 completion of each application review, the peer review committee
 60 shall report its findings and recommendations to the secretary
 61 providing, at a minimum, the following information:

62 a. Justification for the specific funding amount required
 63 by the risk pool applicant based on current year service trend
 64 data, including validation that the applicant's financial need
 65 was caused by circumstances beyond the control of the lead
 66 agency management;

67 b. Verification that the proposed use of risk pool funds
 68 meets at least one of the criteria in paragraph (c); and

69 c. Evidence of technical assistance provided in an effort
 70 to avoid the need to access the risk pool and recommendations
 71 for technical assistance to the lead agency to ensure that risk
 72 pool funds are expended effectively and that the agency's need
 73 for future risk pool funding is diminished.

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74 (b) Upon approval by the secretary of a risk pool
 75 application, the department may request funds from the risk pool
 76 in accordance with s. 216.181(6) (a).

77 (c)(a) The purposes for which the community-based care
 78 risk pool shall be used include, ~~but are not limited to:~~

79 1. Significant changes in the number or composition of
 80 clients eligible to receive services.

81 2. Significant changes in the services that are eligible
 82 for reimbursement.

83 ~~3. Scheduled or unanticipated, but necessary, advances to~~
 84 ~~providers or other cash flow issues.~~

85 ~~4. Proposals to participate in optional Medicaid services~~
 86 ~~or other federal grant opportunities.~~

87 ~~5. Appropriate incentive structures.~~

88 ~~3.6.~~ Continuity of care in the event of failure,
 89 discontinuance of service, or financial misconduct by a lead
 90 agency.

91 ~~7. Payment for time limited technical assistance and~~
 92 ~~consultation to lead agencies in the event of serious~~
 93 ~~performance or management problems.~~

94 ~~8. Payment for meeting all traditional and nontraditional~~
 95 ~~insurance needs of eligible members.~~

96 ~~4.9.~~ Significant changes in the mix of available funds.

97 ~~(d)(b)~~ After approval of the plan in the 2004-2005 fiscal
 98 year and annually thereafter, The department may also request in
 99 its annual legislative budget request, and the Governor may
 100 recommend, that the funding necessary to carry out paragraph (c)
 101 ~~(a)~~ be appropriated to the department. ~~Subsequent funding of the~~
 102 ~~community based care risk pool shall be supported by premiums~~

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103 ~~assessed to members of the community based care risk pool on a~~
 104 ~~recurring basis. The community based care risk pool may invest~~
 105 ~~and retain interest earned on these funds. In addition, the~~
 106 department may request the allocation of transfer funds from ~~to~~
 107 the community-based care risk pool in accordance with s.
 108 216.181(6)(a) ~~as available in order to ensure an adequate~~
 109 ~~funding level if the fund is declared to be insolvent and~~
 110 ~~approval is granted by the Legislative Budget Commission. Such~~
 111 ~~payments for insolvency shall be made only after a determination~~
 112 ~~is made by the department or its actuary that all participants~~
 113 ~~in the community based care risk pool are current in their~~
 114 ~~payments of premiums and that assessments have been made at an~~
 115 ~~actuarially sound level. Such payments by participants in the~~
 116 ~~community based care risk pool may not exceed reasonable~~
 117 ~~industry standards, as determined by the actuary. Funds Money~~
 118 ~~from this pool fund may be used to match available federal~~
 119 ~~dollars. Dividends or other payments, with the exception of~~
 120 ~~legitimate claims, may not be paid to members of the community-~~
 121 ~~based care risk pool until the loan issued by the department is~~
 122 ~~repaid in full. Dividends or other payments, with the exception~~
 123 ~~of legitimate claims and other purposes contained in the~~
 124 ~~approved plan, may not be paid to members of the community-based~~
 125 ~~care risk pool unless, at the time of distribution, the~~
 126 ~~community based care risk pool is deemed actuarially sound and~~
 127 ~~solvent. Solveney shall be determined by an independent actuary~~
 128 ~~contracted by the department. The plan shall be developed in~~
 129 ~~consultation with the Office of Insurance Regulation.~~

130 1. Such funds shall constitute partial security for
 131 contract performance by lead agencies and shall be used to

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132 | ~~offset the need for a performance bond. Subject to the approval~~
 133 | ~~of the plan, the community based care risk pool shall be managed~~
 134 | ~~by the Florida Coalition for Children, Inc., or the designated~~
 135 | ~~contractors of the Florida Coalition for Children, Inc.~~
 136 | ~~Nonmembers of the community based care risk pool may continue to~~
 137 | ~~contract with the department but must provide a letter of credit~~
 138 | ~~equal to one twelfth of the annual contract amount in lieu of~~
 139 | ~~membership in the community based care risk pool.~~

140 | 2. The department may separately require a bond to
 141 | mitigate the financial consequences of potential acts of
 142 | malfeasance, misfeasance, or criminal violations by the
 143 | provider.

144 | (e) The department may issue an interest-free loan to the
 145 | Florida Coalition for Children, Inc., for the purpose of
 146 | creating a self-insurance program pursuant to law. The loan
 147 | shall be secured by the cumulative contractual revenue of the
 148 | community-based care lead agencies participating in the self-
 149 | insurance program. The amount of the loan shall be in an amount
 150 | equal to the amount appropriated by the Legislature for this
 151 | purpose. The terms of the repayment of the loan shall be based
 152 | on the economic viability of the self-insurance program.

153 | Section 2. Pilot project and financial issues.--

154 | (1) A 3-year pilot program is established for the
 155 | community-based care lead agencies serving Miami-Dade, Monroe,
 156 | and Broward Counties. This pilot program shall allow for the
 157 | transfer of the current lead agency oversight responsibilities
 158 | of the Department of Children and Family Services to independent
 159 | entities and for funding the program through a grant that

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160 enhances funding flexibility. The pilot program shall expand the
 161 responsibilities and services provided by these lead agencies.

162 (2) The Department of Children and Family Services shall
 163 enter into a 3-year contract with the designated community-based
 164 care lead agency serving Miami-Dade and Monroe Counties and with
 165 the designated community-based care lead agency serving Broward
 166 County, which have been established in accordance with s.
 167 409.1671, Florida Statutes. The department and the lead agencies
 168 in this pilot program shall submit to the Chief Financial
 169 Officer proposed contract language no later than June 1, 2006.
 170 The Chief Financial Officer shall review the contracts for
 171 sufficiency and respond to the parties no later than June 15,
 172 2006. This subsection shall take effect upon this act becoming a
 173 law.

174 (3) The amount of federal Title IV-E funding allocated in
 175 each year of the 3-year pilot program shall be equal to the
 176 amount earned by each of the lead agencies and by the
 177 department's district or zone community-based care activities
 178 during the 2005-2006 fiscal year that is transitioned to the
 179 lead agencies as part of this pilot program. The lead agencies
 180 shall annually provide certified audited financial statements to
 181 the Governor, the Department of Children and Family Services,
 182 the appropriations committees of the Legislature, and the local
 183 community-based care alliances of Broward, Miami-Dade, and
 184 Monroe Counties. In implementing the pilot program, the
 185 department shall not use funds appropriated or allocated to
 186 community-based care lead agencies located outside of the pilot
 187 program area.

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188 (4) Fiscal monitoring, administrative monitoring, and
 189 programmatic monitoring shall be conducted by independent,
 190 nongovernmental third-party entities under contract with the
 191 department and shall be conducted in a manner jointly agreed to
 192 by the lead agencies and the department. The department shall
 193 fund the cost of contracting with these entities.
 194 Notwithstanding any other provision to the contrary, the pilot
 195 program may not be implemented until the parties have agreed to
 196 the selection of these entities and the manner in which they are
 197 to carry out their responsibilities. Such agreement must be
 198 reached by the parties no later than July 1, 2006. The selection
 199 of the third-party entities under this subsection shall be
 200 exempt from s. 287.057, Florida Statutes, from the effective
 201 date of this subsection through June 30, 2007. Fiscal oversight
 202 shall be conducted in a manner similar to the model used by the
 203 department during the 2005-2006 fiscal year in Miami-Dade and
 204 Monroe Counties. This subsection shall take effect upon this act
 205 becoming a law.

206 (5) To compare the performance of the pilot program's lead
 207 agencies with that of other lead agencies, the programmatic
 208 performance of the pilot program's lead agencies shall be
 209 measured and monitored by outcome measures contained in their
 210 contracts with the department that are in effect on the
 211 effective date of this section and other outcomes designed to
 212 best determine the quality of performance of the lead agencies
 213 and developed by the parties in conjunction with the
 214 independent, nongovernmental third-party entities as part of the
 215 agreement on programmatic monitoring. The independent entities
 216 shall submit their reports directly to the Governor, the

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217 President of the Senate, the Speaker of the House of
 218 Representatives, and the community-based care alliances of
 219 Broward, Miami-Dade, and Monroe Counties.

220 (6) For purposes of this section, the term "parties" means
 221 the two lead agencies implementing this pilot program and the
 222 Department of Children and Family Services.

223 (7) The department and the lead agencies implementing the
 224 pilot program shall develop an implementation plan with the
 225 Agency for Health Care Administration regarding the pending
 226 Medicaid mental health reform for the purpose of implementing a
 227 local model that allows for the integration of behavioral health
 228 and physical health with the local child welfare systems of
 229 care.

230 (8) The annual evaluation required by s. 409.1671(4) (a),
 231 Florida Statutes, shall include an evaluation of the pilot
 232 program described in this section that compares performance and
 233 fiscal management of the community-based care lead agencies in
 234 the pilot program to those that are not in the pilot program. In
 235 addition, the Office of Program Policy Analysis and Government
 236 Accountability and the Office of the Auditor General shall
 237 jointly complete an evaluation of the pilot program and provide
 238 an interim report to the President of the Senate and the Speaker
 239 of the House of Representatives no later than February 1, 2008,
 240 and a final report no later than February 1, 2009.

241 (9) The provisions of this subsection shall be included in
 242 the contracts with the lead agencies in the pilot program and
 243 may be implemented with other community-based care lead agencies
 244 established under s. 409.1671, Florida Statutes. The contracts
 245 must be fixed-price funded in 36 equal monthly installments. The

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246 first 2 months shall be paid in advance on July 10, 2006. The
 247 contracts shall be funded by a grant of general revenue and by
 248 applicable federal funding sources. The lead agencies are
 249 responsible for documenting federal earnings, and federal
 250 earnings not documented shall be returned to the department.
 251 Notwithstanding s. 409.1671(8), Florida Statutes, the lead
 252 agencies' annual contract amounts may be increased by excess
 253 federal earnings in accordance with s. 216.181(11), Florida
 254 Statutes. Monthly reporting requirements shall be limited to
 255 only the reports required to support monthly federal expenditure
 256 reporting and statutorily restricted state expenditures as
 257 defined in the lead agencies' approved cost allocation plan.
 258 Quarterly reconciliation shall be required from the
 259 participating lead agencies. All other required fiscal reporting
 260 shall be determined by the independent fiscal monitors.
 261 Notwithstanding any other provision of law, the following lead
 262 agency expenditures are permissible: staff cellular telephone
 263 allowances; contracts requiring deferred payments and
 264 maintenance agreements; security deposits for office leases;
 265 related professional membership dues and professional state
 266 license fees; food and refreshment; promotional materials; and
 267 costs associated with fundraising personnel either employed or
 268 contracted with by the lead agency.

269 (10) The department, in consultation with the Department
 270 of Financial Services, shall develop a compliance supplement for
 271 the state financial assistance regarding flexibility of
 272 allowable expenditures in accordance with s. 215.97, Florida
 273 Statutes, which shall be applicable to all community-based lead
 274 agencies.

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275 (11) The department shall submit a plan to the Executive
 276 Office of the Governor, the chair of the Senate Ways and Means
 277 Committee, and the chair of the House of Representatives Fiscal
 278 Council describing the most efficient use of resources relating
 279 to community-based care in the district administration and the
 280 program management and compliance budget entities. Any cost
 281 savings achieved as a result of this plan shall be distributed
 282 to the lead agencies by a methodology described in the plan. The
 283 department's plan shall be submitted no later than July 1, 2006.
 284 This subsection shall take effect upon this act becoming a law.

285 (12) This section is repealed July 1, 2009.

286 Section 3. Except as otherwise expressly provided in this
 287 act and except for this section, which shall take effect upon
 288 this act becoming a law, this act shall take effect July 1,
 289 2006.

292 ===== T I T L E A M E N D M E N T =====

293 Remove the entire title and insert:

294 A bill to be entitled

295 An act relating to foster care and related services;
 296 amending s. 409.1671, F.S.; removing provisions requiring
 297 the Department of Children and Family Services to develop
 298 a statewide plan for outsourcing foster care and related
 299 services; removing certain plan requirements; removing an
 300 obsolete date; removing a requirement to issue certain
 301 loans; requiring a community-based risk pool initiative
 302 for certain purposes; providing for the components of the
 303 initiative; establishing a risk pool peer review

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304 committee; requiring a report to the secretary of the
 305 department; authorizing expenditures from the risk pool
 306 under certain circumstances; providing for uses of the
 307 risk pool; removing certain provisions relating to the
 308 sources of future funding; making conforming changes;
 309 removing authority of the Florida Coalition for Children,
 310 Inc., or its subcontractors to manage certain risk pool
 311 funds; authorizing the department to issue an interest-
 312 free loan to the Florida Coalition for Children, Inc., to
 313 establish a self-insurance program based on certain
 314 appropriations; providing terms for repayment of the loan;
 315 establishing a 3-year pilot program in Miami-Dade, Monroe,
 316 and Broward Counties; providing for the transfer of
 317 certain responsibilities from the Department of Children
 318 and Family Services to specified community-based care lead
 319 agencies; requiring review of the proposed contract by the
 320 Chief Financial Officer by a certain date; providing for
 321 funding the pilot program from grants and federal funds;
 322 requiring that annual financial statements regarding the
 323 pilot program be provided to the Governor, the
 324 Legislature, the department, and certain local community-
 325 based care alliances; prohibiting the department from
 326 using certain funds; requiring that fiscal,
 327 administrative, and programmatic monitoring be conducted
 328 by third-party entities; requiring the department to fund
 329 the cost of the third-party monitoring; exempting the
 330 selection of the third-party entities from the provisions
 331 of s. 287.057, F.S., for a specified period of time;
 332 requiring such entities to submit reports to the Governor,

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333 the Legislature, and certain local community-based care
334 alliances; defining "parties"; requiring that the
335 department, the lead agencies implementing the pilot
336 program, and the Agency for Health Care Administration
337 develop a plan for integrating certain Medicaid health
338 services; specifying that the annual evaluation required
339 in s. 409.1671, F.S., include an evaluation of the pilot
340 program; directing the Office of Program Policy Analysis
341 and Government Accountability and the Office of the
342 Auditor General to complete an evaluation of the pilot
343 program and to report to the Legislature; providing for
344 certain provisions to be included in the contract;
345 requiring the department to enter into fixed-price
346 contracts; authorizing increased contract payments under
347 certain circumstances; requiring fiscal reporting and
348 reconciliation; providing for certain expenditures by lead
349 agencies; providing for a compliance supplement applicable
350 to all community-based lead agencies; requiring the
351 department to submit a plan by July 1, 2006, to the
352 Governor and Legislature for the efficient use of
353 resources; providing for distribution of savings resulting
354 from the plan; providing for future repeal; providing
355 effective dates.