

By Senator Wise

5-00340-08

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1 A bill to be entitled
2 An act relating to the personal care attendant program;
3 amending s. 413.402, F.S.; revising provisions governing a
4 program to provide personal care attendants for persons
5 who have disabilities; requiring the Florida Endowment
6 Foundation for Vocational Rehabilitation to enter into an
7 agreement with the Florida Association of Centers for
8 Independent Living to administer a program to provide such
9 attendants to persons who have severe and chronic
10 disabilities; naming the program the "James Patrick
11 Memorial Work Incentive Personal Attendant Services
12 Program"; providing for payment for the administration of
13 the program; removing a provision requiring interagency
14 memoranda of agreement; revising eligibility requirements
15 for participation in the personal care attendant program;
16 removing provisions concerning the training, selection,
17 and recruitment of personal care attendants; providing for
18 training of program participants concerning hiring and
19 managing an attendant; providing for the adoption and
20 revision of program policies and procedures by the
21 association in cooperation with an oversight group;
22 providing for membership in the oversight group; amending
23 s. 413.4021, F.S.; increasing the percentage of revenues
24 collected from persons who fail to remit sales tax which
25 is deposited in the operating account of the Florida
26 Endowment Foundation for Vocational Rehabilitation to
27 administer the program; deleting a provision requiring
28 that the Florida Endowment Foundation for Vocational
29 Rehabilitation select an entity to administer the program;

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30 providing for automatic enrollment in the program for
31 certain persons; providing an effective date.

32
33 Be It Enacted by the Legislature of the State of Florida:

34
35 Section 1. Section 413.402, Florida Statutes, is amended to
36 read:

37 413.402 Personal care attendant program.--The Florida
38 Endowment Foundation for Vocational Rehabilitation shall enter
39 into an agreement with the Florida Association of Centers for
40 Independent Living to administer the James Patrick Memorial Work
41 Incentive Personal Attendant Services, ~~in conjunction with the~~
42 ~~Brain and Spinal Cord Injury Program in the Department of Health,~~
43 ~~shall develop a Program to provide personal care attendants to~~
44 ~~persons who have severe and chronic disabilities of all kinds and~~
45 ~~who are eligible under pursuant to~~ subsection (1). Effective July
46 1, 2008, the Florida Association of Centers for Independent
47 Living shall receive 15 percent of the funds to be deposited with
48 the Florida Endowment Foundation for Vocational Rehabilitation
49 pursuant to ss. 320.08068(4) (d) and 413.4021(1) to administer the
50 program. ~~association and the Department of Health shall jointly~~
51 ~~develop memoranda of understanding with the Department of~~
52 ~~Revenue, the Florida Medicaid program in the Agency for Health~~
53 ~~Care Administration, the Florida Endowment Foundation for~~
54 ~~Vocational Rehabilitation, and the Division of Vocational~~
55 ~~Rehabilitation of the Department of Education.~~

56 (1) In order to be ~~Persons~~ eligible to participate in the
57 program, a person must:

58 (a) Be at least 18 years of age, be a resident of this

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59 state for at least 12 months immediately prior to application to
60 the program, and be significantly and chronically disabled ~~due to~~
61 ~~a traumatic spinal cord injury;~~

62 (b) Require a personal care attendant for assistance with
63 or support for at least two activities of daily living as defined
64 in s. 429.02, as determined by a physician or psychiatrist
65 ~~bathing, dressing, bowel and bladder management, and~~
66 ~~transportation;~~

67 (c) Require a personal care attendant in order to accept a
68 job or maintain substantial gainful employment; and

69 (d) Be able to acquire hire and direct ~~supervise~~ a personal
70 care attendant. ~~;~~ and

71 ~~(e) Meet one of the following requirements:~~

72 ~~1. Live in a nursing home;~~

73 ~~2. Have moved out of a nursing home within the preceding~~
74 ~~180 days due to participation in a Medicaid home and community-~~
75 ~~based waiver program targeted to persons with brain or spinal~~
76 ~~cord injuries; or~~

77 ~~3. Presently be employed but, because of a loss of a~~
78 ~~caregiver, will lose employment and potentially return to a~~
79 ~~nursing home.~~

80 (2) (a) ~~The association, in cooperation with the Department~~
81 ~~of Health and the Florida Endowment Foundation for Vocational~~
82 ~~Rehabilitation, shall develop a program to recruit, screen, and~~
83 ~~select candidates to be trained as personal care attendants.~~

84 ~~(b) The services of a nurse registry licensed pursuant to~~
85 ~~s. 400.506 may be utilized to recruit and screen candidates and~~
86 ~~to operate as a fiscal intermediary through which payments are~~
87 ~~made to individuals performing services as personal care~~

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88 ~~attendants under the program. The Department of Health and the~~
89 ~~Agency for Health Care Administration shall seek any federal~~
90 ~~waivers necessary to implement this provision.~~

91 ~~(3) The Florida Association of Centers for Independent~~
92 ~~Living association and the Department of Health, in cooperation~~
93 ~~with the Florida Endowment Foundation for Vocational~~
94 ~~Rehabilitation, shall provide ~~develop~~ a training to program~~
95 ~~participants on hiring and managing a personal care attendant~~
96 ~~and, in cooperation with the oversight group described in~~
97 ~~paragraph (b), adopt and revise the policies and procedures~~
98 ~~governing the personal care attendant program and the training~~
99 ~~program.~~

100 ~~(b) The oversight group shall include, but need not be~~
101 ~~limited to, a member of the Florida Association of Centers for~~
102 ~~Independent Living, a person who is participating in the program,~~
103 ~~and one representative each from the Department of Revenue, the~~
104 ~~Department of Children and Family Services, the Division of~~
105 ~~Vocational Rehabilitation in the Department of Education, the~~
106 ~~Medicaid program in the Agency for Health Care Administration,~~
107 ~~the Florida Endowment Foundation for Vocational Rehabilitation,~~
108 ~~and the Brain and Spinal Cord Injury Program in the Department of~~
109 ~~Health program for personal care attendants.~~

110 ~~(4) The association, in cooperation with the Department of~~
111 ~~Health and the Florida Endowment Foundation for Vocational~~
112 ~~Rehabilitation, shall establish procedures for selecting persons~~
113 ~~eligible under subsection (1) to participate in the program.~~

114 ~~(5) The association, in cooperation with the Department of~~
115 ~~Revenue, the Brain and Spinal Cord Injury Program in the~~
116 ~~Department of Health, the Florida Medicaid program in the Agency~~

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117 ~~for Health Care Administration, a representative from the state~~
118 ~~attorney's office in each of the judicial circuits participating~~
119 ~~in the program, the Florida Endowment Foundation for Vocational~~
120 ~~Rehabilitation, and the Division of Vocational Rehabilitation of~~
121 ~~the Department of Education, shall develop a plan for~~
122 ~~implementation of the program.~~

123 ~~(6) The Department of Health shall establish an oversight~~
124 ~~workgroup for the personal care attendant program to oversee the~~
125 ~~implementation and administration of the program. The workgroup~~
126 ~~shall be composed of one representative from the Brain and Spinal~~
127 ~~Cord Injury Program in the Department of Health, one~~
128 ~~representative from the Department of Revenue, one representative~~
129 ~~from the Florida Medicaid Program in the Agency for Health Care~~
130 ~~Administration, one representative from the Florida Endowment~~
131 ~~Foundation for Vocational Rehabilitation, one representative from~~
132 ~~the Florida Association of Centers for Independent Living, one~~
133 ~~representative from the Division of Vocational Rehabilitation of~~
134 ~~the Department of Education, and two members who are persons with~~
135 ~~traumatic spinal cord injuries or are family members of persons~~
136 ~~with traumatic spinal cord injuries.~~

137 Section 2. Subsections (1) and (2) of section 413.4021,
138 Florida Statutes, are amended to read:

139 413.4021 Program participant selection; tax collection
140 enforcement diversion program.--The Department of Revenue, in
141 coordination with the Florida Association of Centers for
142 Independent Living and the Florida Prosecuting Attorneys
143 Association, shall select judicial circuits in which to operate
144 the program. The association and the state attorneys' offices
145 shall develop and implement a tax collection enforcement

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146 diversion program, which shall collect revenue due from persons
147 who have not remitted their collected sales tax. The criteria for
148 referral to the tax collection enforcement diversion program
149 shall be determined cooperatively between the state attorneys'
150 offices and the Department of Revenue.

151 (1) Notwithstanding the provisions of s. 212.20, 50 percent
152 of the revenues collected from the tax collection enforcement
153 diversion program shall be deposited into the operating account
154 of the Florida Endowment Foundation for Vocational
155 Rehabilitation, to be used to administer the personal care
156 attendant program and to contract with the state attorneys
157 participating in the tax collection enforcement diversion program
158 in an amount of not more than \$50,000 for each state attorney.

159 (2) The program shall operate only from funds deposited
160 into the operating account of the Florida Endowment Foundation
161 for Vocational Rehabilitation. ~~The Florida Endowment Foundation
162 for Vocational Rehabilitation shall select the entity to
163 administer the personal care attendant program.~~

164 Section 3. Notwithstanding any other law, each person
165 enrolled in the personal care attendant program under s. 413.402,
166 Florida Statutes, on June 30, 2008, and each person enrolled in
167 the pilot personal care attendant program in Lake, Orange,
168 Osceola, and Seminole Counties as authorized in Specific
169 Appropriation 340, chapter 2006-25, Laws of Florida, on June 30,
170 2008, is automatically eligible for and enrolled in the personal
171 care attendant program, as amended by this act on July 1, 2008.

172 Section 4. This act shall take effect July 1, 2008.