

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 745 Prepaid Services for Parents of Children with Developmental Disabilities

**SPONSOR(S):** Health Care Services Policy Committee, Ford and others

**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 1278

	<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1)	Health Care Services Policy Committee	7 Y, 0 N, As CS	Preston	Schoolfield
2)	Health & Family Services Policy Council	26 Y, 0 N	Lowell	Gormley
3)	Human Services Appropriations Committee	6 Y, 0 N	Massengale	Massengale
4)	Full Appropriations Council on General Government & Health Care	28 Y, 0 N	Massengale	Leznoff
5)				

### SUMMARY ANALYSIS

The bill establishes a study group to determine the feasibility of creating a prepaid service plan for children with disabilities modeled after the Florida prepaid college plan. The prepaid service plan would allow funds to be paid into a fund on behalf of a child and would be used for vouchers for services to help the child to transition into the workforce. A final report due no later than January 29, 2010, will address services for which a voucher could be used, financial requirements, qualifications of service providers, and steps necessary to qualify this plan for a federal waiver program that would allow for federal financial participation.

The bill provides for travel and per diem expenses for study group members. The House proposed General Appropriations Act for Fiscal Year 2009-2010 includes a nonrecurring appropriation of \$4,200 from the Operations and Maintenance Trust Fund to provide funding for travel for family members and printing costs.

The bill takes effect July 1, 2009.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

#### **BACKGROUND**

#### **YOUNG ADULTS WITH DISABILITIES IN TRANSITION**

Children with special health care or educational needs typically face significant obstacles as they age out of child health care and educational service programs. Although there are a variety of federal and state programs and agencies with some involvement in meeting the health care, educational, and vocational needs of children and adolescents transitioning into adult programs, successfully integrating these efforts has proven difficult.

#### **Educational and Vocational Training**

Many children with special health care needs also have developmental or mental disabilities, and face significant obstacles as they age out of traditional educational and service arrangements. According to the National Organization on Disability's Harris Survey of Americans with Disabilities:

- Young people with disabilities drop-out of high school at twice the rate of their peers.
- As many as 90 percent of young people with disabilities are living at poverty level three years after graduation.
- 80 percent of people with significant disabilities are not employed.
- Only one out of ten persons with a developmental disability will achieve integrated, competitive employment, and most will earn less than \$2.40 an hour in a sheltered workshop.<sup>1</sup>

#### *The Bureau of Exceptional Education and Student Services*

The Bureau of Exceptional Education and Student Services within the Florida Department of Education supports school districts and others in their efforts to provide exceptional student education programs for students ages 3–21 who have disabilities and students who are gifted. Each school district is responsible for providing services to students who are eligible for exceptional student education (ESE) programs, including, but not limited to:

- Autism Spectrum Disorder

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<sup>1</sup> 2004 National Organization on Disability/Harris Survey of Americans with Disabilities, [www.nod.org](http://www.nod.org) (last visited March 5, 2009).

- Developmentally Delayed (prekindergarten only)
- Mentally Handicapped (Educable, Trainable, and Profound)
- Physically Impaired with Orthopedic Impairment
- Physically Impaired with Other Health Impairment
- Physically Impaired with Traumatic Brain Injury
- Specific Learning Disabilities
- Speech and Language Impaired

School districts and schools develop their own programs to serve students in the most effective way possible. The bureau provides training to school staff, district administrators, and others on important issues and current instructional practices; gives the districts information on state and federal law relating to the education of exceptional students; monitors the districts' compliance with those laws; helps resolve conflicts between school districts and families of exceptional students; and provides any other technical assistance school districts need.

In addition, the bureau maintains a clearinghouse on information and materials for parents and supports various activities that encourage parent involvement and parent/professional collaboration. The bureau works to ensure that ESE programs and students are included in important state initiatives such as school reform, dropout prevention, and school safety. The bureau coordinates with other agencies that provide services to children, such as the Florida Department of Children and Family Services and the Florida Department of Juvenile Justice.<sup>2</sup>

#### *The Division of Vocational Rehabilitation*

The Division of Vocational Rehabilitation (DVR) provides services for eligible persons with physical or mental impairments. These services are designed to enable individuals with disabilities to prepare for, get, keep, or regain employment. Last year, more than 12,458 Floridians were helped to find or keep jobs. Employment outcomes have increased by 33 percent over the past three years. The growing demand for services has been met during the time of rapid caseload growth, but now DVR is facing the reality that the growing demand cannot be met with the available financial resources.<sup>3</sup>

Vocational Rehabilitation (VR) is a state-federal program within the Florida Department of Education (DOE). Individuals may be eligible for VR assistance if they have a mental or physical disability that interferes with potential employment. School to work transition involves a number of services and activities that focus on students in secondary schools preparing for and making the transition from school to the adult community. Students are encouraged to gain work experience while attending high school to help them achieve successful adult employment.

The school is responsible for providing a free and appropriate public education, including specialized instruction and related services, to students with disabilities until they earn a standard diploma or reach their 22nd birthday. The student meets with a VR counselor to start the application process and determine eligibility. If a student is eligible for assistance, a vocational plan will be developed with the student that will address services needed for a successful transition to the student's desired employment goal.<sup>4</sup>

<sup>2</sup> Available at <http://www.fldoe.org/ese/ese-home.asp> (last visited March 6, 2009).

<sup>3</sup> Effective August 4, 2008, DVR enacted an order of selection plan, consistent with the federal Rehabilitation Act. This is necessary for the division to operate within the available financial resources provided by the federal & state government. Federal law requires priority be given to individuals with the "most significant disabilities." The purpose of an order of selection is to provide an equitable and organized method for serving individuals with disabilities if the state VR agency's fiscal and/or personnel resources are not sufficient to serve all eligible individuals who apply for VR services. This provision allows VR to live within the available financial resources provided by federal and state appropriations. Order of selection assures that individuals with the most significant disabilities are served first when resources are not sufficient to serve all. Effective April 14, 2008, the division also implemented a process to determine financial participation of individuals in the cost of their vocational rehabilitation services. The individual's level of participation in the cost of services is based on the individual's plan of services, income, and includes consideration of work-related disability expenses paid by the individual. The division believes that this process is necessary to maximize the use of available resources and to continue to serve all eligible individuals.

<sup>4</sup> Available at <http://www.rehabworks.org/Files/DocumentsLinks/STW%20English1.pdf> and <http://www.rehabworks.org/index.cfm?fuseaction=SubMain.Consumers> (last visited March 6, 2009).

VR representatives usually participate in the transition Individual Educational Plan (IEP) meetings when the student turns 16 if they may benefit from VR services to reach their adult employment goal. The purpose of this early communication is to ensure that the student and family are aware of VR eligibility requirements and possible services. Eligible students who need assistance with work experience while they are still in high school are encouraged to apply when they are 16 years old and older. Others are encouraged to apply a year before leaving high school so VR can determine eligibility and develop an Individualized Plan for Employment (IPE) for the student.

## Other Florida Initiatives

There are several initiatives in Florida focused on identifying challenges faced by young adults with disabilities as they transition from high school to adult life and developing strategies to create an effective transition system. Examples of these programs include:

- Partners in Transition is a broad-based partnership working to identify issues and barriers faced by Florida's youth as they make the transition from high school to adulthood. The initiative is a partnership with The Able Trust, Advocacy Center for Persons with Disabilities, Inc., Agency for Health Care Administration, Agency for Persons with Disabilities, Florida Center for Inclusive Communities at the University of South Florida, the Florida Department of Children and Families, the Florida Department of Education, the Florida Department of Health, the Florida Developmental Disabilities Council, Inc., the Transition to Independence Process Project, the Agency for Workforce Innovation, families, self-advocates, and educators from throughout the state.<sup>5</sup> The objectives of the initiative are to:
  - Implement a comprehensive statewide plan for transition, that systematically addresses secondary and postsecondary transition issues that will assist the young people of Florida to make successful transitions from school to adult roles and to initiate the process for aligning resources at the federal, state, and local level to influence and increase interagency collaboration toward postsecondary education and transition efforts; and
  - Increase capacity at the state and local levels to implement strategies that result in improved transition outcomes for students with disabilities in Florida across all the "quality of life" domains (i.e., employment, postsecondary education, community and independent living, recreation and leisure, etc.).
- The Transition Center, located at the University of Florida in Gainesville, serves as a catalyst for coordination of research, education, and services relating to adolescents and adults, especially those with disabilities, as they make and act upon transition choices. The center is also a resource for family members and professionals. The Transition Center is supported by the Career Development and Transition Project, which is one of the Department of Education's Bureau of Exceptional Education and Student Services discretionary projects.<sup>6</sup>

## Agency for Persons with Disabilities

The Agency for Persons with Disabilities (APD) is responsible for providing services to persons with developmental disabilities in Florida. A developmental disability is defined as "a disorder or syndrome that is attributable to retardation, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely."<sup>7</sup> Children who are at high risk of having a developmental disability and are between the ages of 3 and 5 are also eligible for services.<sup>8</sup>

APD provides an array of home and community based services through contract providers, as well as services in Developmental Disabilities Centers and forensic program services. APD administers home and community based services through 14 area offices that are responsible for day to day operations and

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<sup>5</sup> Available at <http://partnersintransition.org> (last visited March 5, 2009).

<sup>6</sup> Available at <http://www.thetransitioncenter.org/home.php> (last visited March 5, 2009).

<sup>7</sup> See s. 393.063(9), F.S.

<sup>8</sup> "High-risk child" is defined in s. 393.063(19) F.S.

report to central office. As of November 2008, APD was serving more than 35,000 persons with developmental disabilities, with an additional 18,000 persons waiting for Medicaid waiver services.<sup>9</sup> From October through December 2008, nearly 1,000 people on the wait list received state-funded only services through APD, and more than 8,500 received some state services through Medicaid State Plan, which leaves about 8,000 people who did not receive any state services.<sup>10</sup>

The majority of people APD serves receive their services through a four-tiered home and community based Medicaid waiver program. This program is the largest source of funding to APD (\$833.5 million in FY 2008-2009) and serves 30,012 people.<sup>11</sup> In addition, the Consumer-Directed Care Plus program is an alternative Medicaid waiver operated by APD that serves 956 people and allows them greater control and choice in the selection of services and providers.<sup>12</sup>

APD also provides services to people who are not eligible for Medicaid and provides non-Medicaid reimbursable services through the Individual and Family Supports program.

## **FLORIDA PREPAID COLLEGE PLAN**

The Florida Prepaid College Plans program is a program through which families prepay for their child's education at a guaranteed fixed rate. The program began in 1988, is the largest prepaid tuition plan in the country, and is guaranteed by the State of Florida. Anyone who is at least 18 years old may purchase a plan. The beneficiary (student) or beneficiary's parent or guardian must have resided in Florida for the past 12 consecutive months prior to purchase. The beneficiary must be a child in the 11th grade or younger. The account owner, any survivor, and the beneficiary must be U.S. citizens or resident aliens. The beneficiary must be born before a plan can be purchased in his or her name.

Since its inception, thousands of Florida families have used the plan to save for their children's and grandchildren's college education. With the plan families can prepay the cost of tuition, local fees, dormitory housing and the new tuition differential fee for use at Florida's 11 public universities and 28 community colleges, including the nine colleges that grant baccalaureate degrees. The plan's value may also be transferred to most private or out-of-state colleges and select technical schools. The financial strength of the plan is demonstrated by the \$8.3 billion in assets in the Florida Prepaid College Trust Fund as of June 30, 2008. The state's public universities and community colleges received \$58.6 million from the Florida Prepaid College Trust Fund for students enrolled in fall semester 2007. No taxpayer money is used to operate the prepaid college plans.<sup>13</sup>

## **EFFECT OF PROPOSED CHANGES**

This bill establishes a study group to determine the feasibility of creating a prepaid service plan for children with disabilities modeled after the Florida Prepaid College Plans program. The prepaid service plan would allow funds to be paid into a fund on behalf of a child and would be used for vouchers for services to help the child to transition into the workforce. In addition, the bill:

- Specifies membership of the study group to include members of the Legislature, the directors of the Agency for Persons With Disabilities (APD) and the Division of Vocational Rehabilitation, the Commissioner of Education, the executive directors of the State Board of Administration and the Arc of Florida, an Arc of Florida family board member, the chairperson of the Family Care Council/Florida, and a parent representative from a local Family Care Council;
- Specifies that administrative support for the study group will be provided by APD;
- Provides for per diem and travel expenses for members; and
- Requires the study group to submit a final report to the Legislature no later than January 29, 2010 and abolishes the group upon submission of the final report.

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<sup>9</sup> Presentation to the House Health Care Services Policy Committee on February 4, 2009.

<sup>10</sup> Agency for Persons with Disabilities Quarterly Report on Agency Services to Floridians with Developmental Disabilities and Their Costs Second Quarter Fiscal Year 2008/2009 (October, November, December 2008).

<sup>11</sup> Susan Chen email dated 11-6-2008, "Tier enrollments for CMS."

<sup>12</sup> *Id.* (note: the CDC client count is included in the total numbers for Tier waivers)

<sup>13</sup> Available at <http://www.myfloridaprepaid.com> (last visited March 5, 2009).

The final report will address services for which a voucher could be used, financial requirements, qualifications of service providers, and steps necessary to qualify this plan for a federal waiver program that would allow for federal financial participation.

**B. SECTION DIRECTORY:**

**Section 1.** Creates an unnumbered section of Florida Statutes, related to prepaid services for parents of children with developmental disabilities.

**Section 2.** Provides an effective date of July 1, 2009.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

The Division of Vocational Rehabilitation estimated a fiscal impact of \$2,400 for the workgroup.

According to the Agency for Persons with Disabilities, it is anticipated that existing APD administrative support staff would be assigned to work with the study group for handling meeting arrangements, travel forms and minutes of the study group meeting. This would result in a fiscal impact for the agency. However, the study group will be short term and the workload would not be full time for an administrative support staff. It is anticipated the added workload could be absorbed within existing resources.

If the study group members are required to travel to one or more meetings, there could be a potential fiscal impact. Of the membership composition stated in the bill, five members are employed by state agencies and one is an employee of the Arc of Florida. It is assumed travel expenses would be covered by their respective state agencies. The remaining three members are family members. It is assumed that their travel expenses would be covered by APD. Assuming there would be two, two day, face to face meetings during the six month time period, calculations are that each trip would cost approximately \$450 per trip per person. Assuming that members would drive – rental car fees and gas reimbursement are estimated to be \$100, hotel room rates \$200 (\$100 per night) and per diem, tolls and incidentals would total \$150. The total amount estimated for travel expense is \$2,700. In lieu of face to face meetings, telephone conferences could be held at nominal cost to the agency, but this would not be the preferred method for lengthy meetings.

Additional costs associated with the administration of the study group could include printing and distribution costs estimated at \$1,500.

The House proposed General Appropriations Act for Fiscal Year 2009-2010 includes a nonrecurring appropriation of \$4,200 from the Operations and Maintenance Trust Fund to provide funding for travel for family members and printing costs.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

On March 10, 2009, the Health Care Services Policy Committee adopted two amendments to the bill that do the following:

- Adds the Commissioner of Education, or his or designee as a member of the study group; and
- Clarifies that the Agency for Persons with Disabilities will provide administrative support for the study group.

The bill was reported favorably as a CS and the analysis reflects the substance of the bill as amended.