



337018

LEGISLATIVE ACTION

Senate

House

.  
. .  
. .  
. .  
. .

Floor: 1/AD/3R

04/24/2009 10:50 AM

---

Senator Fasano moved the following:

**Senate Amendment (with title amendment)**

Delete lines 67 - 88

and insert:

(a) The ~~guidelines for the~~ request for proposal must be developed by the ~~department in consultation with the~~ area agency agencies on aging and. ~~Such guidelines must~~ include requirements for the assurance of quality and cost-efficiency of services, minimum personnel standards, and employee benefits. The department shall adopt a rule creating a dispute resolution



337018

13 mechanism. The rule, which shall be adopted no later than August  
14 1, 2009, and which all area agencies on aging shall be required  
15 to follow, shall create standards for a bid protest and a  
16 procedure for resolution. The dispute resolution mechanism  
17 established in the rule shall include a provision for a  
18 qualified, impartial decisionmaker who shall conduct a hearing  
19 to determine whether the area agency's proposed action is  
20 contrary to the area agency's governing statutes or rules or to  
21 the solicitation specifications. The standard of proof for the  
22 protestor shall be whether the area agency's action was clearly  
23 erroneous, contrary to competition, arbitrary, or capricious.  
24 The dispute resolution mechanism shall also provide a mechanism  
25 for review of the decisionmaker's determination by a qualified  
26 and impartial reviewer, if review is requested. The standards  
27 for the bid protest shall include:

28 1. A provision requiring notice of an area agency's  
29 proposed contract award and a clear point of entry for any  
30 substantially affected entity to challenge the proposed award.

31 2. A provision for an automatic stay of the contract award  
32 process upon the filing of a bid protest that shall not be  
33 lifted until the protest is resolved.

34 3. Provisions permitting all substantially affected  
35 entities to have an opportunity to participate in the hearing,  
36 to conduct discovery, to obtain subpoenas compelling the  
37 appearance of witnesses, to present evidence and argument on all  
38 issues involved, to conduct cross-examination, to submit  
39 rebuttal evidence, and to submit proposed findings of fact and  
40 conclusions of law.

41 4. Provisions for expeditious resolution of the bid



337018

42 protest, including a requirement that once the area agency on  
43 aging refers a bid protest petition to the decisionmaker, a  
44 hearing shall be conducted within 30 days, unless that timeframe  
45 is waived by all parties.

46 (b) For any lead agency designation conducted prior to the  
47 effective date of this subsection that is the subject matter of  
48 litigation on the date on which this subsection becomes law, the  
49 litigants shall be entitled to proceed with discovery under the  
50 Florida Rules of Civil Procedure immediately upon the date on  
51 which this subsection becomes law, and the litigants shall  
52 further be entitled to participate in the bid protest procedures  
53 enacted by rule pursuant to this subsection. ~~The area agency on~~  
54 aging, in consultation with the department, shall exempt from  
55 the competitive bid process any contract with a provider who  
56 meets or exceeds established minimum standards, as determined by  
57 the department.

58 (c) In each community care service system the lead agency  
59 must be given the authority and responsibility to coordinate  
60 some or all of the services, either directly or through  
61 subcontracts, for functionally impaired elderly persons. These  
62 services must include case management, homemaker and chore  
63 services, respite care, adult day care, personal care services,  
64 home-delivered meals, counseling, information and referral, and  
65 emergency home repair services. The lead agency must compile  
66 community care statistics and monitor, when applicable,  
67 subcontracts with agencies providing core services.

68  
69 ===== T I T L E A M E N D M E N T =====

70 And the title is amended as follows:



337018

71 Delete lines 8 - 14  
72 and insert:  
73 period of designation as a lead agency; revising  
74 requirements with respect to the request for proposal  
75 process for the designation of a lead agency for  
76 community care for the elderly; requiring the  
77 Department of Elderly Affairs to create a dispute  
78 resolution mechanism by rule; providing requirements  
79 with respect to the dispute resolution mechanism;  
80 specifying required standards for a bid protest;  
81 providing for specified entitlement of litigants when  
82 certain lead agency designations are the subject  
83 matter of litigation; eliminating provisions that  
84 require an area agency on aging to exempt specified  
85 providers from the competitive bid process; amending  
86 s. 430.2053, F.S.; conforming