

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 4045 Assisted Living Facilities

**SPONSOR(S):** Hudson

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 688

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Quality Subcommittee	13 Y, 0 N	Poche	Calamas
2) Health & Human Services Committee			

### SUMMARY ANALYSIS

House Bill 4045 repeals s. 429.54, F.S., which authorizes the Department of Elder Affairs (DOEA) to conduct field visits and audits of assisted living facilities (ALFs) to collect information regarding the cost of room, board and personal care in ALFs. The bill would also repeal the requirement in the section which requires facility owners to provide reports, audits and accountings of cost as required by DOEA rules to assist in gathering information.

The bill repeals a provision that allows local governments or organizations to subsidize the amount of money provided to ALFs by the state by contributing a local subsidy, upon approval of DOEA. The bill repeals a provision that prevents the state from adjusting the amount of money provided to ALFs due to receipt of local subsidies.

The bill appears to have no fiscal impact.

The bill has an effective date of July 1, 2011.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

Chapter 408, F.S., and part I of chapter 429, F.S., govern the licensure and operation ALFs in the state of Florida.<sup>1</sup> The Agency for Health Care Administration must conduct research and studies relating to, among many other areas of health care, health care costs.<sup>2</sup> The results of these research efforts and studies are to be reported to the Legislature and the Governor, with analysis as to, among other areas, cost of care.<sup>3</sup>

Section 429.54(1), F.S., authorizes DOEA to conduct field visits and audits of ALFs as necessary to gather information regarding the actual cost of providing room, board, and personal care in ALFs and report said information to the Legislature. ALFs are required to cooperate with DOEA and provide all necessary reports, audits, and accountings to show cost of operation of the ALFs.

Section 429.54(2), F.S., allows local governments or organizations to subsidize the rate of state-authorized payment to ALFs for cost of care of residents, upon approval of DOEA. Currently, the Department of Children and Families (DCF) administers the Optional State Supplementation (OSS) Program, which provides cash assistance to individuals to help defray the costs of residing in an ALF, mental health residential treatment facility, and adult family care home.<sup>4</sup> The OSS Program is completely state funded and is not associated with Medicare or Medicaid. Eligibility for OSS funds and the amount of funds received by an individual are determined by DCF.<sup>5</sup> In addition to the amount of OSS funds, a person may receive additional financial assistance from third parties to help defray the cost of care, pursuant to additional statutory authority found outside this section.<sup>6</sup>

Subsidies provided by local governments or organizations do not impact the amount of money which a resident of an ALF receives from the state. The statute prohibits the state from reducing the amount of assistance it provides to the resident of an ALF by any amount of any local subsidy received from a local government or organization. According to the DOEA, local governments or organizations are not providing local subsidies to residents of ALFs under this statute.<sup>7</sup>

##### Effect of Proposed Changes

The bill repeals the authorization for DOEA to conduct field visits and audits to gather information regarding the cost of providing room, board and personal care to residents of ALFs. ALFs would no longer need to compile information and produce reports, audits or accountings of cost to assist DOEA in creating its report to the Legislature.

Local governments or organizations may provide local subsidies to residents of ALFs through other statutory authority.<sup>8</sup> The local subsidy would not need to be approved by DOEA. However, the prohibition against reducing state supplements to ALFs based on the amount of local subsidy received by ALFs is removed by repeal of this statute. Therefore, it is possible that the state could survey all

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<sup>1</sup> S. 408.802(14), F.S.

<sup>2</sup> S. 408.062(1), F.S.

<sup>3</sup> S. 408.062(4)(a), F.S.

<sup>4</sup> S. 409.212, F.S.

<sup>5</sup> *Id.*, see also Rule 65A-1.205, F.A.C. and Rule 65A-2.032, F.A.C.

<sup>6</sup> S. 409.212(4), F.S.

<sup>7</sup> Telephone conversation with DOEA staff, February 18, 2011.

<sup>8</sup> S. 409.212(4), F.S.

ALFs to determine the amount local subsidy being received and reduce the OSS payment to residents accordingly.

B. SECTION DIRECTORY:

**Section 1:** Repeals s. 429.54, F.S., relating to collection of information; local subsidy.

**Section 2:** Provides an effective date of July 1, 2011.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

ALFs will be positively impacted through the repeal of s. 429.54, F.S. because facilities will no longer be required to gather data and produce reports, audits or accountings of cost to assist DOEA in gathering information to complete its report to the Legislature. The cost savings would come in the form of staff hours saved by not gathering information or creating the specified documents. Also, staff would not be required to assist DOEA representatives during the field visit and/or audit, and possible post-visit or audit discussions regarding the need for additional information from the facility.

D. FISCAL COMMENTS:

None.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not 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/ COMMITTEE SUBSTITUTE CHANGES**