

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Children, Families, and Elder Affairs Committee

BILL: SB 682

INTRODUCER: Senator Richter

SUBJECT: State Long-Term Care Ombudsman Program

DATE: March 8, 2011

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Daniell	Walsh	CF	<b>Pre-meeting</b>
2.	_____	_____	HR	_____
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

Part I of ch. 400, F.S., creates the Office of State Long-Term Care Ombudsman to identify, investigate, and resolve complaints made by or on behalf of residents of long-term care facilities. This bill repeals Florida law requiring this office to maintain a system to collect and analyze data relating to complaints and conditions of the long-term care facilities in the state.

This bill repeals section 400.0089, Florida Statutes.

**II. Present Situation:**

The federal Older Americans Act (OAA) requires each state to create a long-term care ombudsman program in order to be eligible to receive funding associated with programs under the OAA.<sup>1</sup> In Florida, the Long-Term Care Ombudsman Program (program) is a statewide, volunteer-based system of district councils that protect, defend, and advocate on behalf of long-term care facility residents, such as those living in nursing homes, assisted living facilities, and adult family-care homes.<sup>2</sup> The program is housed in the Department of Elder Affairs (DOEA) and is directed by the state long-term care ombudsman.<sup>3</sup> Fifty-five percent of the program's funding comes from the federal OAA; the remaining balance is appropriated by the state.<sup>4</sup>

<sup>1</sup> 42 U.S.C. s. 3058.

<sup>2</sup> See Florida's Long-Term Care Ombudsman Program, *2009-2010 Annual Report*, available at <http://ombudsman.myflorida.com/Publications.php> (follow the "2009-2010 Annual Report" hyperlink) (last visited Feb. 17, 2011).

<sup>3</sup> Section 400.0063, F.S.

<sup>4</sup> *2009-2010 Annual Report*, *supra* note 2.

An ombudsman “is a specially trained and certified volunteer who has been given authority under federal and state law to identify, investigate and resolve complaints made by, or on behalf of, long-term care facility residents.”<sup>5</sup> Ombudsmen also complete annual assessments of each long-term care facility in the state to ensure the health, safety, and welfare of the residents.<sup>6</sup>

Florida law requires that the Office of State Long-Term Care Ombudsman (office) maintain a statewide system for collecting and analyzing data relating to complaints and conditions in long-term care facilities.<sup>7</sup> The office must also publish the information pertaining to the number and types of complaints received by the program on a quarterly basis.<sup>8</sup> Additionally, federal law requires the office to have a statewide data system to collect, analyze, and report data on residents, facilities, and complaints to federal officials as well as the National Ombudsman Resource Center.<sup>9</sup>

Currently, Florida has 376 volunteer long-term care ombudsmen organized in 17 district councils throughout the state.<sup>10</sup> During the 2009-2010 fiscal year, ombudsmen staff and volunteers:

- Investigated and resolved 9,098 complaints;
- Contributed over 20,000 hours of volunteer service to the residents;
- Saved the state over \$1.8 million in salaries and administrative costs for long-term care residents; and
- Completed 100 percent of the prescribed annual facility assessments.<sup>11</sup>

### III. Effect of Proposed Changes:

This bill repeals s. 400.0089, F.S., which requires the Office of State Long-Term Care Ombudsman to maintain a statewide uniform reporting system for collecting and analyzing data relating to complaints and conditions in long-term care facilities, and to publish quarterly information pertaining to the number and type of complaints received.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

<sup>5</sup> Florida’s Long-Term Care Ombudsman Program, *Residents and Families*, <http://ombudsman.myflorida.com/ResidentFam.php> (last visited Feb. 17, 2011).

<sup>6</sup> *Id.* For an entire list of responsibilities of an ombudsman, see s. 400.0065(1), F.S.

<sup>7</sup> Section 400.0089, F.S.

<sup>8</sup> *Id.*

<sup>9</sup> Dep’t of Elder Affairs, *2011 Legislative Bill Analysis SB 682* (Feb. 28, 2011) (on file with the Senate Committee on Children, Families, and Elder Affairs); see also 42 U.S.C. s. 3058g(c) and 42 U.S.C. s. 3058g(h)(1).

<sup>10</sup> *2009-2010 Annual Report*, *supra* note 2.

<sup>11</sup> *Id.*

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

This bill repeals the requirement in Florida law for the Office of State Long-Term Care Ombudsman (office) to publish quarterly information pertaining to the number and type of complaints received by the ombudsman program. However, pursuant to federal law, the office will still be required to publish an annual report, which includes data concerning complaints.<sup>12</sup> Therefore, repealing s. 400.0089, F.S., will not relieve the state ombudsman and the office of the requirement to publish an annual report and to maintain a statewide uniform reporting system to analyze and collect data.<sup>13</sup>

Instead of repealing s. 400.0089, F.S., the Department of Elder Affairs (DOEA) recommends amending the statute so that the law requires that information focusing on the *disposition* of complaints also be provided on a quarterly basis.<sup>14</sup> According to DOEA “[s]ince ombudsmen seek to resolve complaints to the residents’ satisfaction, focusing on the disposition is an important component of an ombudsman investigation.”<sup>15</sup>

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

<sup>12</sup> Dep’t of Elder Affairs, *supra* note 9.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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