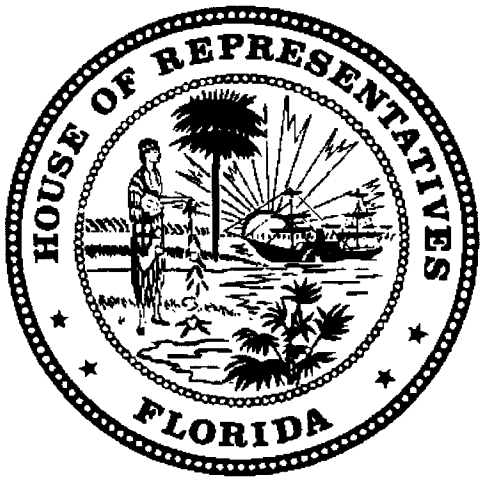

Committee on Healthy Seniors

Tuesday, March 6, 2007
4:00 PM – 6:00 PM
24 HOB

Meeting Packet

Marco Rubio
Speaker

Hugh Gibson, III
Chair

House of Representatives

Committee on Healthy Seniors

AGENDA

March 6, 2007
4:00 PM – 6:00 PM
24 HOB

I. Opening Remarks by the Chair

II. Introduction of E. Douglas Beach, Ph.D., Secretary of Department of Elder Affairs

III. Consideration of the following bill(s):

HB 97 Medicare Supplement Policy by Hays

HB 397 Caregivers for Adults by Anderson

HB 497 Personal Care Attendant Program by Gardiner

IV. Closing Remarks by the Chair

V. Adjournment

BIO of DOEA
Secretary

E. Douglas Beach, Ph.D., Secretary
Florida Department of Elder Affairs

On February 13, 2007, Governor Charlie Crist appointed Dr. E. Douglas Beach as the Secretary of the Florida Department of Elder Affairs. Secretary Beach has worked in the aging network for more than 12 years most recently serving as the Chief Executive Officer of the Senior Resource Alliance (Area Agency on Aging of Central Florida, Inc.) a planning, policy and resource agency serving Florida's seniors 60 years of age and older in Brevard, Orange, Osceola, and Seminole Counties.

Secretary Beach was named CEO of the Senior Resource Alliance in September of 1999 and under his leadership, the organization's annual budget rose from $16 to $25 million. The Senior Resource Alliance became the first Aging and Disability Resource Center in Florida and has been recognized as one of the Top 10 Information and Referral systems in the nation.

Previously, Secretary Beach also served as the Staff Economist for Congressman David L. Hobson (R-OH). He was responsible for developing, coordinating and implementing the Congressman's activities on the House of Representatives' Budget Committee. Secretary Beach worked with the Congressman to write and introduce major legislation promoting insurance coverage for long-term care. Prior to his work in Washington, D.C., Secretary Beach served as the Deputy Director of Programs at the Ohio Department of Aging (ODA). He was responsible for managing a program budget of more than $250 million, serving 1.9 million seniors in Ohio.

Secretary Beach is a founding member of the Orange County Commission on Aging and the Brevard County Commission on Aging. He has also served on several other Boards and Commissions, including the Florida Council on Aging; Florida Association of Area Agencies on Aging; Heart of Florida United Way; Mayor of Orlando's Senior Citizen Advisory Council; Orlando Regional Chamber of Commerce; Orange County Parks and Recreation Advisory Board; and the Southern Gerontological Society.

Secretary Beach received a B.A. degree in Biology from Kenyon College, a Master's degree in Agricultural Economics from The Ohio State University and a Doctorate in Economics from North Carolina State University.

HB 97

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 97 Medicare Supplement Policies
SPONSOR(S): Hays
TIED BILLS: **IDEN./SIM. BILLS:** SB 266

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Healthy Seniors		Walsh	Schoolfield
2) Healthcare Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

House Bill 97 would exclude Medicare Supplement Insurance (Medigap policies) offered by employers or employer groups to employees or former employees from the definition of "Medicare supplement policy." Such policies *issued in Florida* would still be subject to other provisions of the Insurance Code. Medicare supplement policies *issued outside of Florida which cover Florida residents* would be exempt from any regulation by the state of Florida, but would be regulated by applicable federal law and the law of the state where the policy was issued. This change would align Florida statutes with the definition of "Medicare supplement policy" found in federal law and the National Association of Insurance Commissioners (NAIC) model law and regulations.

The act is effective July 1, 2007.

This bill does not appear to have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government --- Medicare supplement plans issued in Florida and offered by employers or employer groups to employees or former employees would be subject to a lesser number of provisions of the Florida Insurance Code. Such plans issued outside of Florida which cover Florida residents would be exempt from any regulation by this state.

B. EFFECT OF PROPOSED CHANGES:

Background

Medicare Supplement Policies

Part VIII of Chapter 627, F.S., is the "Florida Medicare Supplement Reform Act," which regulates Medicare supplement insurance. A "Medicare supplement policy" is defined in s. 627.672(1), F.S., as a health insurance policy or other health benefit plan offered by a private entity to reimburse the policyholder for expenses incurred but not reimbursable under Medicare.

The policies are also known as Medigap coverage.[1] This coverage is available to persons who have both Medicare Part A (hospital insurance) and Part B (medical insurance), that is, persons age 65 and over. Plans which are marketed as Medigap policies must comply with extensive federal regulations relating to marketing, standardized benefit schedules, and disclosure requirements, among others. Importantly, Medigap policies are guaranteed renewable, which means the insurer must automatically renew or continue coverage as long as the premiums are continuously paid and the insured has not committed fraud.

Premiums for Medigap policies may be set using one of three methods:

- Community-rated (or no-age rated) --- Every policyholder pays the same premium regardless of age; premiums may increase because of inflation
- Issue-age rated --- The premium is based on the age of the policyholder at initial purchase, so younger persons pay less; premiums may increase because of inflation
- Attained-age rated --- The premium is based on the policyholder's current (attained) age, so premiums increase each year; premiums may also increase because of inflation

Out-of-state insurers that issue Medicare supplement policies to Florida residents are required to file a master copy of the policy and any certificate used in the state with the Office of Insurance Regulation (OIR). In-state insurers issuing this type of policy are required to report to the OIR every policy and certificate number and the date of issuance; must file with the OIR rates and rating schedules; and must demonstrate compliance with the loss ratio standards set forth in s. 627.6745, F.S.

Other Health Insurance Coverage for Persons with Medicare

Medicare supplement policies are not the only kinds of health insurance available to persons with Medicare. Medicare Advantage Plans, Medicare Health Plans, PACE, COBRA coverage, employer and union plans, Tricare, and Veterans' benefits also provide coverage secondary to Medicare.[2]

Retirees of many larger employers receive health insurance coverage which coordinate Medicare in two ways. Some employers are self-insured, and those plans are exempt from state regulation as an

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[1] The discussion of Medigap coverage derives from *2006 Choosing a Medigap Policy: A Guide to Health Insurance for People with Medicare*, developed jointly by the Centers for Medicare & Medicaid Services (CMS) and the National Association of Insurance Commissioners (NAIC), available online at http://www.medicare.gov/Publications/Pubs/pdf/02110.pdf

[2] These plans are not the subject of the provisions of this bill.

employee benefit by operation of ERISA.[3] Other employers offer retiree health plans, which plans are exempt from regulation as Medicare supplement policies pursuant to s. 627.673(3), F.S.

Legislative History

Prior to 1988, Florida's definition of Medicare supplement policy contained a specific exemption for such policies provided by employer groups or labor organizations, thus making those Medicare supplement insurance policies exempt from state regulation. The exemption reportedly was removed[4] because a model act recommended by the National Association of Insurance Commissioners (NAIC) contained no such exclusion.

The current NAIC Medicare Supplement Insurance Minimum Standards Model Act now includes an exemption for policies issued by employer groups or labor organizations.[5] The NAIC Model Act, including this definition, has been adopted by 38 other states.

The Social Security Act definition of "Medicare supplement policy", 42 U.S.C. s.1395ss, subpart (g)(1), contains an exemption for policies issued by employer groups or labor organizations.

In 2000, the Florida Legislature exempted labor organizations from the definition of Medicare supplement policy.[6]

Effect of Proposed Legislation

HB 97 would exclude Medicare Supplement Insurance offered by employers or employer groups to employees or former employees from the definition of "Medicare supplement policy." The bill would have the effect of conforming the Florida definition of Medicare supplement policy to that in federal law, NAIC Model acts, and the laws of 38 other states which have adopted the NAIC Model.

Policies issued in Florida would still be subject to provisions of the Insurance Code other than Part VIII of Chapter 627, F. S. Medicare supplement policies issued outside of Florida which cover Florida residents would be exempt from any regulation by the state of Florida, and OIR would have no authority to assist Florida insureds who have problems with or complaints about the insurer. However, the latter policies would be regulated by applicable federal law and the law of the state where the policy was issued.

C. SECTION DIRECTORY:

Section 1: Amends s. 627.672(1), F.S., to exclude policies or plans of employers from the definition of Medicare supplement policy.

Section 2: Provides an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

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[3] Employment Retirement Income Security Act of 1974. ERISA is a federal law setting minimum standards for most voluntarily established pension and health plans in private industry to provide protection for individuals in those plans.
[4] Section 1, Chapter 88-338, Laws of Florida.
[5] NAIC 650-1, *Medicare Supplement Insurance Minimum Standards Model Act*, s. 2.B. (National Association of Insurance Commissioners). [The exemption is expressed as part of the applicability and scope of regulation of Medicare supplement policies, not as an exemption as part of a definition of Medicare supplement insurance.]
[6] Chapter 2000-202, Laws of Florida

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill allows employers and employer groups the same exemption afforded labor organizations relating to the provision of health insurance to their employees and retirees on Medicare. Proponents of the bill note that employers could negotiate group coverage on a nationwide basis without being required to have a Florida-specific Medigap standard policy. The premiums would be based on the benefit levels they choose to offer their retirees and the price the employer can afford to pay. As the cost of retiree health insurance escalates, more employers are cutting back on or eliminating this coverage as a retirement benefit. It is expected that the exemption authorized in this bill will provide more affordable options for employers wishing to offer this benefit.

The Office of Insurance Regulation and the Division of Consumer Services in the Department of Financial Services raise concerns that this exemption will result in consumer protections being lost for consumers obtaining policies through an employer group --- policies that are similar but not identical to Medicare supplement policies. These policies would not be required to meet form requirements, rate regulation that provides stability of premium costs, or be subject to marketing protections found in current Florida law. They advise that this change could also allow fictitious employer groups to form solely for the purpose of providing insurance benefits to a market that is not currently accessible to the non-Medicare supplement market carriers.[7]

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.

[7] Reference is made to a product called "Senior Choice" sold here in 2002. It was offered by an insurer under the mistaken assumption that an employer group exemption was in effect at the time. Agents of the company enrolled nursing home residents and other seniors by convincing them that work the senior had performed in the past (e.g., lawn mowing) qualified him or her as an employer or employer group. The policies they were sold were limited health benefit products, which provided substantially less coverage than the Medicare supplement policies they relinquished. The Division of Consumer Services took action in May 2002 to stop the sale of the product in Florida.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR:

This legislation will greatly enhance the access to healthcare for Florida's senior citizens.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to Medicare supplement policies; amending
3 s. 627.672, F.S.; revising an exclusion from a definition
4 of the term "Medicare supplement policy"; providing an
5 effective date.
6
7 Be It Enacted by the Legislature of the State of Florida:
8
9 Section 1. Subsection (1) of section 627.672, Florida
10 Statutes, is amended to read:
11 627.672 Definitions.--For the purposes of ss. 627.671-
12 627.675:
13 (1) A "Medicare supplement policy" is a health insurance
14 policy or other health benefit plan offered by a private entity
15 to individuals who are entitled to have payments for health care
16 costs made under Medicare, Title XVIII of the Social Security
17 Act ("Medicare"), as presently constituted and as may later be
18 amended, which provides reimbursement for expenses incurred for
19 services and items for which payment may be made under Medicare
20 but which expenses are not reimbursable by reason of the
21 applicability of deductibles, coinsurance amounts, or other
22 limitations imposed by Medicare. The term does not include any
23 such policy or plan of one or more <u>employers or</u> labor
24 organizations, or of the trustees of a fund established by one
25 or more <u>employers or</u> labor organizations, or a combination
26 thereof, for <u>employees or former employees, or a combination</u>
27 <u>thereof, of the employers or for</u> employees or former employees,

28 or a combination thereof, or ~~for~~ members or former members, or a
29 combination thereof, of the labor organizations.
30 Section 2. This act shall take effect July 1, 2007.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. **HB 97**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill: Committee on Healthy Seniors
2 Representative(s) Hays offered the following:
3
4 **Amendment**
5 Remove line(s) 26 and 27 and insert:
6 thereof, for employees or former employees,

000000

HB 397

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 397 Caregivers for Adults
SPONSOR(S): Anderson and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 434

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Healthy Seniors		Walsh	Schoolfield
2) Healthcare Council			
3) Policy & Budget Council			
4)			
5)			

SUMMARY ANALYSIS

House Bill 397 would allow the Department of Elderly Affairs (DOEA) to establish a pilot program to train economically disadvantaged workers 55 or older to act as companions and provide personal assistance to frail adults 60 or older. The agency is directed to use the resources of the Senior Community Service Employment Program (SCSEP), which program is funded by an allocation to the agency from the U.S. Department of Labor to provide training and subsidized jobs to SCSEP participants.

The effective date of this bill is July 1, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote Personal Responsibility --- The bill establishes a pilot program to train and employ economically disadvantaged persons age 55 and older to provide care and assistance to frail adults age 60 and older. It affords opportunities to those with low job prospects to become employed in jobs serving elders in their own homes and communities.

B. EFFECT OF PROPOSED CHANGES:

Background

Caregiving

About 10.1 million people over the age of 18 in the U.S. – nearly 4 percent of the population – need another person's assistance to carry out activities such as bathing, feeding, cleaning, or grocery shopping.[1] Within this group, nearly 80 percent of care recipients are 50 and older, and the average age of care recipients 50 and older in the U.S. is 75.[2] Most care recipients (79 percent) who need long-term care live at home or in the community,[3] and those individuals living in nursing homes and other institutional settings could potentially live in the community if appropriate, affordable support was available.[4]

Although family members and friends provide most of the needed assistance for people in home and community-based settings, home care workers, personal assistants, direct support professionals and other direct-care workers are a critical resource for many. Individuals and families rely on these workers to provide them with comfort, companionship, and care in an atmosphere that preserves their dignity and well-being. Such workers are already in short supply in many regions and demand is expected to grow rapidly, due to a combination of consumer demand and changes in public policy.

Federal funds allocated for health care training are typically reserved for the development of various medical professionals (doctors, nurses, etc.). Consequently, there are limited resources available to address the training needs of paraprofessional caregivers who work in community settings.

Senior Community Service Employment Program (SCSEP)

The Senior Community Service Employment Program (SCSEP) is a work-based training program providing subsidized, part-time, community service work-based training for low-income persons age 55 or older who have poor employment prospects. It is administered by and funded through the U. S. Department of Labor (DOL). DOEA and various not for profit organizations are awarded competitive grants to operate SCSEP programs around the state:

- DOEA
- AARP Foundation
- SER Jobs for Progress National, Inc.

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[1] McNeil, Jack. 2001. *Americans with disabilities: Household economic studies*. Washington, DC: US Department of Commerce, Economics and Statistics Administration, US Census Bureau.
[2] *Caregiving in the U.S.*, 2004, National Alliance for Caregiving and AARP, available at http://www.aarp.org/research/reference/publicopinions/aresearch-import-853.html.
[3] *Long-term Care Users Range in Age and Most Do Not Live in Nursing Homes: Research Alert*, 2000, Agency for Healthcare Research and Quality, available, in part, at http://www.ahcpr.gov/research/nov00/1100RA19.htm.
[4] *Understanding Medicaid Home and Community Services: A Primer*, 2000, U.S. Department of Health and Human Services. Available at http://aspe.hhs.gov/daltcp/reports/primer.pdf.

- Senior Service America, Inc.
- USDA Forest Service
- National Caucus & Center on Black Aged, Inc.
- Experience Works

Program participants work an average of 20 hours a week, and are paid the highest of Federal, State or local minimum wage, or the prevailing wage. The goal of the SCSEP program is to transition participants from subsidized training jobs to other employment which is not supported with Federal funds.[5]

Effect of Proposed Legislation

HB 397 would allow DOEA to establish a pilot program to train economically disadvantaged workers 55 or older to act as companions and provide personal assistance to frail adults 60 or older. The pilot may begin in Fiscal Year 2007-2008 and cannot exceed three years. The agency is directed to use the resources of the Senior Community Service Employment Program (SCSEP) to the greatest extent allowed by federal law to support the pilot program.

The bill specifies that the purposes of the pilot are to:

- Develop training and employment opportunities for economically disadvantage workers 55 or older
- Encourage the use of those workers to provide community-based care for frail adults 60 or older
- Meet the demand for in-home companion care and assistance service providers to prevent
- Act as a direct referral service for DOEA

HB 397 requires that if DOEA establishes the pilot program, it must provide a report to the Speaker of the House and the President of the Senate by January 1, 2010. The report must include the status of the pilot; the number of workers 55 or older trained to provide community-based care for frail adults 60 or older; the number of those frail adults served; and recommendations for further legislation, including whether the pilot program should be replicated statewide.

The effective date of the bill is July 1, 2007.

C. SECTION DIRECTORY:

Section 1: Creates an unnumbered section of Florida Statutes; allows DOEA to establish a pilot program to train certain workers to serve frail adults; provides purposes of the pilot; requires that DOEA report to the Legislature if the pilot program is established.

Section 2: Provides that the act is effective July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

[5] *See, generally, Senior Community Service Employment Program*, available at http://www.doleta.gov/seniors

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill establishes a pilot program to train and employ economically disadvantaged persons age 55 and older to provide care and assistance to frail adults age 60 and older. It affords opportunities to those with low job prospects to become employed in jobs serving elders in their own homes and communities.

D. FISCAL COMMENTS:

None, but see "Drafting Issues or Other Comments" below.

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:

DOEA advises that there are many restrictions on the funding associated with the SCSEP Program. Specifically, the funds are awarded by the Department of Labor based on competitive grants and may be used only for the approved purposes. Accordingly, DOEA would not have the ability to implement the pilot using the "resources of the Senior Community Service Employment Program (SCSEP) to the greatest extent allowed by federal law" until the next grant opportunity, currently scheduled for award in mid-2008.

In addition, President Bush has proposed a 28 percent cut in funding for the SCSEP Program for the 2008 federal fiscal year, putting additional pressure on the award of funds to the state.[6]

D. STATEMENT OF THE SPONSOR:

This bill will provide in-home care services by economically-disadvantaged adults over 55 to Florida's seniors, who are the fastest growing segment of our population. This will make it possible for them to remain in the comfort of their own homes and prevent costly premature institutional placement.

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[6] *Jobs Program for Elderly on Chopping Block*, Sarasota Herald-Tribune, February 25, 2007.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to caregivers for adults; authorizing the
3 Department of Elderly Affairs to create a pilot program to
4 train economically disadvantaged workers of a specified
5 age or older to act as companions and provide certain
6 services to frail adults in the community; specifying
7 additional purposes of the pilot program; requiring an
8 evaluation and report to the Legislature; providing an
9 effective date.
10
11 Be It Enacted by the Legislature of the State of Florida:
12
13 Section 1. (1) Beginning in the 2007-2008 fiscal year and
14 for a period of no longer than 3 years, the Department of
15 Elderly Affairs may establish a pilot program to train
16 economically disadvantaged workers 55 years of age or older to
17 act as companions and provide personal assistance to frail
18 adults 60 years of age or older in the community. The department
19 shall use the resources of the Senior Community Service
20 Employment Program to support the pilot program to the greatest
21 extent allowed by federal law. The purposes of the pilot program
22 are to:
23 (a) Foster the development of training and employment
24 opportunities for economically disadvantaged workers 55 years of
25 age or older;
26 (b) Encourage the use of economically disadvantaged
27 workers 55 years of age or older in providing community-based
28 care for frail adults 60 years of age or older who live in the

29 community;
30 (c) Assist in meeting the growing demand for in-home
31 companion care services and personal care services and
32 preventing costly and premature institutional placements; and
33 (d) Act as a direct referral service for the Department of
34 Elderly Affairs.
35 (2) By January 1, 2010, if the pilot program is
36 established, the Department of Elderly Affairs shall submit a
37 report to the President of the Senate and the Speaker of the
38 House of Representatives which includes the status of the
39 implementation of the program, the number of economically
40 disadvantaged workers 55 years of age or older who have been
41 trained to provide community-based care for frail adults 60
42 years of age or older who live in the community, the number of
43 frail adults 60 years of age or older who have received such
44 services, and recommendations for further legislation, including
45 a recommendation regarding extending the pilot program
46 throughout the state.
47 Section 2. This act shall take effect July 1, 2007.

Bill No. **397**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill: Committee on Healthy Seniors
2 Representative(s) Anderson offered the following:
3
4 **Amendment (with title amendment)**
5 Remove line(s) 15 and insert:
6 Elderly Affairs may establish a pilot program in Pasco or
7 Pinellas county or both to train
8
9 ========== T I T L E A M E N D M E N T ==========
10 Remove line(s) 3 and insert:
11 A bill to be entitled
12 Department of Elderly Affairs to create a pilot program in
13 certain counties to
14
15

Bill No. **397**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill: Committee on Healthy Seniors
2 Representative(s) Anderson offered the following:
3
4 **Amendment title amendments)**
5 Remove line(s) 47 and insert:
6 Section 2. There is hereby appropriated from the General
7 Revenue Fund $100,000 to support the pilot program.
8 Section 3. This act shall take effect July 1, 2007.
9
10 ========== T I T L E A M E N D M E N T ==========
11 Remove line 9 and insert:
12 appropriation; providing an effective date.
13

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 497 Personal Care Attendant Program
SPONSOR(S): Gardiner and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 922

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Healthy Seniors		Walsh	Schoolfield
2) Healthcare Council			
3) Policy & Budget Council			
4)			
5)			

SUMMARY ANALYSIS

House Bill 497 amends the existing Personal Care Attendant program (PCA program) to expand eligibility to persons who have severe and chronic disabilities of all kinds. The bill derives from the experience of the Cross Disability Pilot program established in the 2006 General Appropriations Act, providing personal care attendants to the significantly disabled in Orange, Osceola, Lake and Seminole counties. The expanded program is available statewide. The bill automatically makes eligible and enrolls in the expanded program those persons participating in the PCA program on June 30, 2007.

The bill redirects 90 percent of the sales tax collections obtained through the Tax Collection Enforcement Diversion program from the General Revenue Fund to the Able Trust as one source of funding for the expanded personal care attendant program.

The bill takes effect July 1, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes — The bill does not propose any additional taxes or fees; however, the bill redirects 90 percent of the sales tax collections obtained through the tax collection enforcement diversion program from the General Revenue Fund to the Able Trust as one source of funding for the expanded personal care attendant program.

Promote Personal Responsibility --- The bill provides personal care attendants to disabled individuals who, without such assistance, would be unable to obtain or maintain employment and who would otherwise be in need of government assistance.

B. EFFECT OF PROPOSED CHANGES:

House Bill 497 amends the existing Personal Care Attendant program (PCA program) to expand eligibility to persons who have severe and chronic disabilities of all kinds. The bill derives from the experience of the Cross Disability Pilot program established in the 2006 General Appropriations Act, providing personal care attendants to the significantly disabled in Orange, Osceola, Lake and Seminole counties. The expanded program is available statewide. The bill automatically makes eligible and enrolls in the expanded program those persons participating in the PCA program on June 30, 2007.

As one source of funding for the expanded program, HB 497 proposes to redirect 90 percent of the sales tax collections obtained through the Tax Collection Enforcement Diversion program from the General Revenue Fund to the Able Trust, an increase from the current 50/50 split.

The PCA program and the Cross Disability Pilot programs and their funding sources are described in detail below.

Background

Personal Care Attendant Program

The Personal Care Attendant (PCA) program was established to assist eligible persons, who are disabled because of a traumatic spinal cord injury, to return to work in their communities by providing personal care attendants.[1] The program is available to persons at least 18 years of age who are significantly disabled because of a traumatic spinal cord injury and:

- Who require a personal care attendant for bathing, dressing, bowel and bladder management, and transportation
- Who require a personal care attendant to obtain or maintain substantial gainful employment
- Who are able to hire and supervise a personal care attendant
- Who meet one of the following requirements:
    - Live in a nursing home.
    - Have recently moved out of a nursing home to participate in a Medicaid home and community-based waiver program.
    - Are presently employed, but because of a loss of a caregiver, will lose employment and potentially return to a nursing home.

[1] Chapter 2002-286, Laws of Florida, established the PCA Program as a pilot; the Program was made permanent in Chapter 2005-172, Laws of Florida.

Responsibility for implementation and administration of the PCA program is with the PCA Program Oversight Workgroup, consisting of two persons who have traumatic spinal cord injuries or who are family members of persons with traumatic spinal cord injuries; and one representative each from the Florida Association of Centers for Independent Living (FACIL); the Department of Revenue (DOR); the Brain and Spinal Cord Injury (BSCI) program[2] in the Department of Health (DOH); the Florida Medicaid program in AHCA; the Florida Endowment Foundation for Vocational Rehabilitation (known as the Able Trust); and the Division of Vocational Rehabilitation (VR) of the Department of Education (DOE).

PCA Program enrollment is shown in the following table:

	Cumulative Enrollment
January 2006[3]	3
April 2006	8
July 2006	15
October 2006	19
January 2007	22

According to the procedures established by the PCA Program Oversight Workgroup, each participant is provided $500 per month ($6,000 per year) to reimburse him or her for the cost of his or her personal care attendant.

Funding for the PCA Program

There are two funding sources for the existing PCA Program: proceeds from the Tax Collection Enforcement Diversion Program and from the Motorcycle Specialty License (Bikers Care) Tag.[4]

Tax Collection Enforcement Diversion Program: In conjunction with the establishment of the PCA Program, the Legislature directed FACIL and the state attorney's offices in the participating counties to implement a Tax Collection Enforcement Diversion program (Diversion program), which collects revenue from persons who have not remitted their sales taxes. Section 413.4021(1), F.S, specifies that 50 percent of those collections are to be remitted by DOR to the Able Trust to be used to implement the PCA program, with the other 50 percent going to the General Revenue Fund.

According to DOR, in FY 2005-2006 the Tax Collection Enforcement Diversion programs in the five participating counties collected and DOR remitted the following:

County	Total Collected FY 2005-2006	50% to Able Trust	50% to General Revenue
Broward	$297,332.55	$148,666.28	$148,666.28
Dade	306,806.74	153,403.37	153,403.37
Duval	448,668.12	224,334.06	224,334.06
Hillsborough	327,724.10	163,862.05	163,862.05
Palm Beach	176,737.74	88,368.67	88,368.67
Total	$1,557,269.25	$778,643.63	$778,643.63

The Able Trust, in turn, remits funds to FACIL to administer and operate the PCA program.

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[2] BSCI provides a statewide coordinated infrastructure to provide access to medical care and rehabilitation for individuals with moderate to severe traumatic brain and spinal cord injuries, which enables individuals to return to community settings. The BSCI program refers individuals who have the potential to obtain gainful employment directly to VR.
[3] Although established in 2002, the Program was unable to identify persons who were able to meet the statutory eligibility criteria. In 2005, the Legislature modified the criteria to include persons who had already transitioned out of nursing homes or into employment. *See Chapter 2005-172, Laws of Florida*, effective July 1, 2005.
[4] *See* s. 413.402, F.S. and s. 320.08068, F.S.

Motorcycle Specialty (Bikers Care) Tag: Since 2003, the Department of Highway Safety and Motor Vehicles (DHSMV) has offered a specialty tag to the owner or lessee of any motorcycle who chooses to pay the additional cost. Pursuant to s. 320.08068(4), F.S., 20 percent[5] of the proceeds from the sale of that tag are remitted to the Able Trust to operate the PCA Program. In Fiscal Year 2005-2006, FACIL received $60,388.75 from the Able Trust as their share of the specialty tag proceeds.

Cross Disability Pilot Program

In 2006, the Legislature appropriated $400,000 in non-recurring general revenue[6] to establish a pilot personal care attendant program in Orange, Osceola, Lake and Seminole counties. In contrast to the statutory PCA Program which may serve only those who suffer from traumatic spinal cord injuries, this Cross Disability pilot is intended to serve persons who are significantly physically or mentally disabled without regard to the underlying cause of the disability. Such individuals who need the assistance of a personal care attendant to accept or maintain employment are eligible to enroll in the pilot program.

Operating procedures for the Cross Disability pilot are based on the experiences of the existing PCA program and the cross disability personal assistance programs of six other states. The pilot began enrollment in January 2007; enrollment is shown in the following table:

	Cumulative Enrollment
October 2006	1
December 2006	2
January 2007	8
February 2007	11

The Cross Disability pilot program provides each participant up to $1,500 per month to pay for a personal care attendant. The maximum reimbursable amount is based on a formula which takes into account a participant's income. Among current enrollees, those maximums range from $1,238.15 to $1,500; in no case, however, may a participant be reimbursed for more than the amount actually paid to his or her personal care attendant.

Because the appropriation establishing the pilot specified non-recurring general revenue, the Cross Disability pilot will be without funds on June 30, 2007.

Effect of Proposed Legislation

HB 497 amends the existing PCA Program and expands participant eligibility in order to provide personal care attendants to persons who have severe and chronic disabilities of all kinds. The program is available to:

- Persons at least 18 years of age who are significantly and chronically disabled;
- Who require a personal care attendant for assistance with or support for at least two activities of daily living, such as bathing, dressing, bowel and bladder management, grooming and hygiene, organization, and transportation
- Who require a personal care attendant in order to accept a job or maintain substantial gainful employment; and
- Who are able to acquire and direct a personal care attendant.

The bill requires FACIL to provide training to program participants on hiring and managing a personal care attendant. It deletes requirements that FACIL, DOH, and the Able Trust develop a program to

[5] Prior to July 1, 2006, the share allotted to the PCA Program was 25 percent. *See Chapter 2006-169, Laws of Florida.*

[6] *See* Specific Appropriation 340, General Approprations Act , Chapter 2006-25, *Laws of Florida.* These funds were appropriated to the Department of Children and Families and are being distributed to FACIL pursuant to grant agreements.

recruit, screen, and select persons to be trained as personal care attendants. It also deletes provisions allowing nurse registries to recruit and screen candidates to act as fiscal intermediaries to make payments to personal care attendants under the program.

HB 947 places the administration of the program solely with FACIL. It establishes an oversight group to review and revise policies and procedures governing the program. The group must include, at a minimum, the following:

- A member of FACIL
- A program participant
- A representative of DCF
- A representative of VR
- A representative of the Medicaid program
- A representative of the Able Trust
- A representative of the BSCIP

HB 497 increases the percentage of revenue collected from the tax collection enforcement diversion program to be remitted to the Able Trust for operation of the program from 50 percent to 90 percent.

The bill provides that all persons who are enrolled in the existing PCA program on June 30, 2007 are automatically eligible for and enrolled in the amended program.

HB 497 is effective on July 1, 2007.

C. SECTION DIRECTORY:

Section 1: Amends s. 413.402, F.S.; requires FACIL to administer a program to provide personal care attendants to persons having severe and chronic disabilities of all kinds; amends program eligibility standards; deletes requirements relating to recruitment, screening and selection of personal care attendants; requires FACIL to provide certain training to program participants; establishes an oversight group and provides membership.

Section 2: Amends s. 413.4021, F.S.; increases the percentage of revenue collected from the tax enforcement diversion program to be remitted to the Able Trust.

Section 3: Provides for automatic enrollment in the program for certain persons.

Section 4: Provides an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill decreases the percent of collected sales tax received from the Tax Collection Enforcement Diversion program that would be deposited in the General Revenue Fund. Under current law, 50 percent is deposited in General Revenue --- in Fiscal Year 2005-2006, that amount was $778,643.63. HB 497 decreases that percentage to 10 percent.

2. Expenditures:

The Department of Revenue reports that it anticipates increased State Attorney participation in the Tax Collection Enforcement Diversion Program by at least two judicial circuits as a result of this bill. DOR prepares diversion cases and refers them to the participating state attorney. In support of the current effort, the agency has an investigator and the equivalent of one additional staff member in each of the five judicial circuits where the Diversion Program operates. If two new Diversion Programs were added, DOR would need two Investigators (Pay Grade 18) to work up the cases, and two Revenue Specialists (Pay Grade 17) to make adjustments to the SUNTAX system.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   Not applicable

2. Expenditures:

   Not applicable

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Individuals with disabilities will have the opportunity to hire a personal care attendant to assist them in order to obtain or maintain gainful employment.

D. FISCAL COMMENTS:

As noted above, the existing PCA program provides participants $500 per month for their personal care attendants; the Cross Disability pilot reimburses up to $1,500 per month. FACIL advises that the program proposed in HB 497 will operate like the Cross Disability pilot; thus each participant in the expanded program will be reimbursed a maximum of $1,500 per month for his or her personal care attendant. The maximum reimbursable amount is based on a formula which takes into account a participant's income. Among current enrollees, those maximums range from $1,238.15 to $1,500 per month; in no case, however, may a participant be reimbursed for more than the amount actually paid to his or her personal care attendant.

Under the terms of HB 497, all persons enrolled in the PCA Program on June 30, 2007, are automatically enrolled in the new program. FACIL advises that the 11 participants in the Cross Disability pilot will also be enrolled in the amended program,[7] and estimates that an additional 12 participants could be served. Thus, 45 participants may receive a maximum reimbursement of $1,500 per month, for an annual total of $810,000.

There are also expenses associated with the Diversion Program, which is one source of funding for the PCA Program. As reported by FACIL,

> For the first year of the PCA project, the Brain and Spinal cord Injury program provided a $50,000 loan to the State Attorney's Office in each of the sites to establish a Tax Collection Enforcement Diversion Program office. To re-pay the loan, each diversion program site is required to pay 25 percent of each quarter's earnings to the BSCIP until they have paid back the full $50,000.
>
> After the first year and the loan payments are made, the rest of the collections up to an amount of $50,000 per year are given back to the state attorney offices to support the cost of the diversion program. The remaining funds are then available to pay for personal care attendants for program participants.

[7] See "Drafting Issues or Other Comments" related to these participants at page 8, *infra*.

FACIL has provided its (unaudited) financial report for Fiscal Year 2005-2006 as follows:

Receipts:	
Broward	$145,569.38
Dade	172,134.39
Duval	202,613.20
Hillsborough	181,838.98
Palm Beach	101,632.33
Motorcyle Tag	60,388.75
Total Receipts	**$864,177.03**

Expenses:	
Total of 5% repayments to BSCIP on FY receipts	$ 40,189.41
Administration of Program	7,187.22
Payments to 5 Diversion Programs	250,000.00
Payments to Program Participants[8]	15,939.00
Total Expenses	**$281,437.63**

FACIL has been receiving funds to support the existing PCA Program since 2003. FACIL reports the following account balances as of January 31, 2007, to support administration and operation of the PCA Program:

Tax collection enforcement diversion program	$1,366,587
Motorcycle specialty tag	84,136
Interest	36,606
Total funds on hand 1/31/07	**$1,487,319**

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:

   As noted in "Drafting Issues or Other Comments" below, FACIL intends to use operating procedures developed through the pilot program to administer the new program. The Legislature might consider providing guidelines regarding eligibility standards, reimbursement rates, and the like in order to ensure that the program is administered according to its direction.

B. RULE-MAKING AUTHORITY:

Not applicable.

[8] It should be noted that there were a limited number of program participants during this period, and enrollment did not begin until half-way through the fiscal year. Thus, this expense item is much lower than it will be on a going forward basis.

C. DRAFTING ISSUES OR OTHER COMMENTS:

This bill derives from the research and experience of the Cross Disability pilot program. Representatives of FACIL have shared the successes of the pilot and their plans to operate the amended program. In that light, the following drafting comments are offered:

- HB 497 sets eligibility standards for program participants:
  - A participant must be at least 18 years of age [line 44]. FACIL advises that the procedures which will be used to operate the amended program include an upper limit on participation of age 65. It is suggested that consideration be given to amending the bill to include or exclude this and other details of the operating procedures.
  - A participant must need "assistance with, or support for, at least two activities of daily living" [lines 46-47]. "Activities of daily living" and "activity of daily living" are terms which are defined elsewhere in Florida Statutes[9] --- differently from each other and differently than in HB 497. It is suggested that the bill be amended to adopt one of the existing statutory definitions or specify the activities which qualify one for eligibility.
- The bill requires FACIL and the oversight group to "**review and revise** the policies and procedures governing the program" [lines 63-81, emphasis supplied]. FACIL advises that the policies and procedures developed in the Cross Disability pilot program will be used to operate the program proposed here. It is suggested that the bill be amended to require that the oversight group "**adopt and revise** the policies and procedures" which will govern this new program.
- It is suggested that, due to the amendment at line 33 requiring FACIL to administer the new program, an existing reference to program administration s. 413.4021(2), F.S., be deleted for clarity.
- The bill provides that all persons enrolled in the PCA program on June 30, 2007, are automatically enrolled in the amended program [lines 144-148]. However, the bill does not address the enrollment of the participants in the Cross Disability pilot program, which is funded only through June 30, 2007. It is suggested that the bill be amended to provide automatic eligibility and enrollment in the amended program for those participating in the pilot on June 30, 2007.

D. STATEMENT OF THE SPONSOR:

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

[9] *See* ss. 429.02, 429.65, 381.745, 413.20, F.S.

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; directing the Florida Association
6 of Centers for Independent Living to administer a program
7 to provide such attendants to persons who have severe and
8 chronic disabilities; removing a provision requiring
9 interagency memoranda of agreement; revising eligibility
10 requirements for persons to participate in the personal
11 care attendant program; removing provisions concerning the
12 training, selection, and recruitment of personal care
13 attendants; providing for training of program participants
14 concerning hiring and managing an attendant; providing for
15 the review and revision of program policies and procedures
16 by the association in cooperation with an oversight group;
17 providing for membership in the oversight group; amending
18 s. 413.4021, F.S.; increasing the percentage of revenues
19 collected from persons who fail to remit sales tax that is
20 deposited in the operating account of the Florida
21 Endowment Foundation for Vocational Rehabilitation to
22 administer the program; providing for automatic enrollment
23 in the program for certain persons; providing an effective
24 date.
25
26 Be It Enacted by the Legislature of the State of Florida:
27

28 Section 1. Section 413.402, Florida Statutes, is amended
29 to read:
30 413.402 Personal Care Attendant Program.--The Florida
31 Association of Centers for Independent Living~~, in conjunction~~
32 ~~with the Brain and Spinal Cord Injury Program in the Department~~
33 ~~of Health,~~ shall administer ~~develop~~ a program to provide
34 personal care attendants to persons who have severe and chronic
35 disabilities of all kinds and who are eligible under ~~pursuant to~~
36 subsection (1). ~~The association and the Department of Health~~
37 ~~shall jointly develop memoranda of understanding with the~~
38 ~~Department of Revenue, the Florida Medicaid program in the~~
39 ~~Agency for Health Care Administration, the Florida Endowment~~
40 ~~Foundation for Vocational Rehabilitation, and the Division of~~
41 ~~Vocational Rehabilitation of the Department of Education.~~
42 (1) To be ~~Persons~~ eligible to participate in the program a
43 person must:
44 (a) Be at least 18 years of age and be significantly and
45 chronically disabled ~~due to a traumatic spinal cord injury~~;
46 (b) Require a personal care attendant for assistance with,
47 or support for, at least two activities of daily living, such as
48 bathing, dressing, bowel and bladder management, grooming and
49 hygiene, organization, and transportation;
50 (c) Require a personal care attendant in order to accept a
51 job or maintain substantial gainful employment; and
52 (d) Be able to acquire ~~hire~~ and direct ~~supervise~~ a
53 personal care attendant.~~; and~~
54 ~~(e) Meet one of the following requirements:~~
55 ~~1. Live in a nursing home;~~

56 ~~2. Have moved out of a nursing home within the preceding~~
57 ~~180 days due to participation in a Medicaid home and community-~~
58 ~~based waiver program targeted to persons with brain or spinal~~
59 ~~cord injuries; or~~
60 ~~3. Presently be employed but, because of a loss of a~~
61 ~~caregiver, will lose employment and potentially return to a~~
62 ~~nursing home.~~
63 (2)(a) The Florida Association of Centers for Independent
64 Living~~, in cooperation with the Department of Health and the~~
65 ~~Florida Endowment Foundation for Vocational Rehabilitation,~~
66 ~~shall develop a program to recruit, screen, and select~~
67 ~~candidates to be trained as personal care attendants.~~
68 ~~(b) The services of a nurse registry licensed pursuant to~~
69 ~~s. 400.506 may be utilized to recruit and screen candidates and~~
70 ~~to operate as a fiscal intermediary through which payments are~~
71 ~~made to individuals performing services as personal care~~
72 ~~attendants under the program. The Department of Health and the~~
73 ~~Agency for Health Care Administration shall seek any federal~~
74 ~~waivers necessary to implement this provision.~~
75 ~~(3) The association and the Department of Health, in~~
76 ~~cooperation with the Florida Endowment Foundation for Vocational~~
77 ~~Rehabilitation,~~ shall provide ~~develop a~~ training to program
78 participants on hiring and managing a personal care attendant
79 and, in cooperation with the oversight group described in
80 paragraph (b), review and revise the policies and procedures
81 governing the program.
82 (b) The oversight group shall include, but need not be
83 limited to, a member of the Florida Association of Centers for

84 Independent Living, a person who is participating in the
85 program, and one representative each from the Department of
86 Revenue, the Department of Children and Family Services, the
87 Division of Vocational Rehabilitation in the Department of
88 Education, the Florida Medicaid Program in the Agency for Health
89 Care Administration, the Florida Endowment Foundation for
90 Vocational Rehabilitation, and the Brain and Spinal Cord Injury
91 Program in the Department of Health ~~program for personal care~~
92 ~~attendants~~.
93 ~~(4) The association, in cooperation with the Department of~~
94 ~~Health and the Florida Endowment Foundation for Vocational~~
95 ~~Rehabilitation, shall establish procedures for selecting persons~~
96 ~~eligible under subsection (1) to participate in the program.~~
97 ~~(5) The association, in cooperation with the Department of~~
98 ~~Revenue, the Brain and Spinal Cord Injury Program in the~~
99 ~~Department of Health, the Florida Medicaid program in the Agency~~
100 ~~for Health Care Administration, a representative from the state~~
101 ~~attorney's office in each of the judicial circuits participating~~
102 ~~in the program, the Florida Endowment Foundation for Vocational~~
103 ~~Rehabilitation, and the Division of Vocational Rehabilitation of~~
104 ~~the Department of Education, shall develop a plan for~~
105 ~~implementation of the program.~~
106 ~~(6) The Department of Health shall establish an oversight~~
107 ~~workgroup for the personal care attendant program to oversee the~~
108 ~~implementation and administration of the program. The workgroup~~
109 ~~shall be composed of one representative from the Brain and~~
110 ~~Spinal Cord Injury Program in the Department of Health, one~~
111 ~~representative from the Department of Revenue, one~~

112 ~~representative from the Florida Medicaid Program in the Agency~~
113 ~~for Health Care Administration, one representative from the~~
114 ~~Florida Endowment Foundation for Vocational Rehabilitation, one~~
115 ~~representative from the Florida Association of Centers for~~
116 ~~Independent Living, one representative from the Division of~~
117 ~~Vocational Rehabilitation of the Department of Education, and~~
118 ~~two members who are persons with traumatic spinal cord injuries~~
119 ~~or are family members of persons with traumatic spinal cord~~
120 ~~injuries.~~
121 Section 2. Subsection (1) of section 413.4021, Florida
122 Statutes, is amended to read:
123 413.4021 Program participant selection; tax collection
124 enforcement diversion program.--The Department of Revenue, in
125 coordination with the Florida Association of Centers for
126 Independent Living and the Florida Prosecuting Attorneys
127 Association, shall select judicial circuits in which to operate
128 the program. The association and the state attorneys' offices
129 shall develop and implement a tax collection enforcement
130 diversion program, which shall collect revenue due from persons
131 who have not remitted their collected sales tax. The criteria
132 for referral to the tax collection enforcement diversion program
133 shall be determined cooperatively between the state attorneys'
134 offices and the Department of Revenue.
135 (1) Notwithstanding the provisions of s. 212.20, 90 ~~50~~
136 percent of the revenues collected from the tax collection
137 enforcement diversion program shall be deposited into the
138 operating account of the Florida Endowment Foundation for
139 Vocational Rehabilitation, to be used to administer the personal

140 care attendant program and to contract with the state attorneys
141 participating in the tax collection enforcement diversion
142 program in an amount of not more than $50,000 for each state
143 attorney.
144 Section 3. Notwithstanding any other law, each person
145 enrolled in the personal care attendant program under s.
146 413.402, Florida Statutes, on June 30, 2007, is automatically
147 eligible for and enrolled in the personal care attendant
148 program, as amended by this act on July 1, 2007.
149 Section 4. This act shall take effect July 1, 2007.

Bill No. **HB 497**

COUNCIL/COMMITTEE ACTION

ADOPTED ___ (Y/N)
ADOPTED AS AMENDED ___ (Y/N)
ADOPTED W/O OBJECTION ___ (Y/N)
FAILED TO ADOPT ___ (Y/N)
WITHDRAWN ___ (Y/N)
OTHER _____

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1 Council/Committee hearing bill: Committee on Healthy Seniors
2 Representative(s) Gardiner offered the following:
3
4 **Amendment (with title amendment)**
5 Remove everything after the enacting clause and insert:
6 Be It Enacted by the Legislature of the State of Florida:
7
8 Section 1. Section 413.402, Florida Statutes, is amended
9 to read:
10 413.402 Personal Care Attendant Program.--The Florida
11 Endowment Foundation for Vocational Rehabilitation shall enter
12 into an agreement with the Florida Association of Centers for
13 Independent Living~~, in conjunction with the Brain and Spinal~~
14 ~~Cord Injury Program in the Department of Health, shall~~ to
15 administer ~~develop~~ a program to provide personal care attendants
16 to persons who have severe and chronic disabilities of all kinds
17 and who are eligible under ~~pursuant to~~ subsection (1). Effective
18 July 1, 2007, t~~T~~he Florida Association of Centers for
19 Independent Living shall receive 15 percent of the funds to be
20 deposited with the Florida Endowment Foundation for Vocational
21 Rehabilitation pursuant to ss. 320.08068(4)(d) and 413.4021(1),
22 Florida Statutes, to administer the program.~~association and the~~

23 ~~Department of Health shall jointly develop memoranda of~~
24 ~~understanding with the Department of Revenue, the Florida~~
25 ~~Medicaid program in the Agency for Health Care Administration,~~
26 ~~the Florida Endowment Foundation for Vocational Rehabilitation,~~
27 ~~and the Division of Vocational Rehabilitation of the Department~~
28 ~~of Education.~~
29 (1) To be ~~Persons~~ eligible to participate in the program a
30 person must:
31 (a) Be at least 18 years of age, be a Florida resident for
32 at least 12 months immediately prior to application to the
33 program, and be significantly and chronically disabled ~~due to a~~
34 ~~traumatic spinal cord injury~~;
35 (b) Require a personal care attendant for assistance with,
36 or support for, at least two activities of daily living as
37 defined in s. 429.02, as determined by a physician or
38 psychiatrist ~~bathing, dressing, bowel and bladder management,~~
39 ~~and transportation~~;
40 (c) Require a personal care attendant in order to accept a
41 job or maintain substantial gainful employment; and
42 (d) Be able to acquire ~~hire~~ and direct ~~supervise~~ a
43 personal care attendant.~~; and~~
44 ~~(e) Meet one of the following requirements:~~
45 ~~1. Live in a nursing home;~~
46 ~~2. Have moved out of a nursing home within the preceding~~
47 ~~180 days due to participation in a Medicaid home and community-~~
48 ~~based waiver program targeted to persons with brain or spinal~~
49 ~~cord injuries; or~~
50 ~~3. Presently be employed but, because of a loss of a~~
51 ~~caregiver, will lose employment and potentially return to a~~
52 ~~nursing home.~~

53 (2)(a) ~~The association, in cooperation with the Department~~
54 ~~of Health and the Florida Endowment Foundation for Vocational~~
55 ~~Rehabilitation, shall develop a program to recruit, screen, and~~
56 ~~select candidates to be trained as personal care attendants.~~
57 ~~(b) The services of a nurse registry licensed pursuant to~~
58 ~~s. 400.506 may be utilized to recruit and screen candidates and~~
59 ~~to operate as a fiscal intermediary through which payments are~~
60 ~~made to individuals performing services as personal care~~
61 ~~attendants under the program. The Department of Health and the~~
62 ~~Agency for Health Care Administration shall seek any federal~~
63 ~~waivers necessary to implement this provision.~~
64 ~~(3)~~ The Florida Association of Centers for Independent
65 Living ~~association and the Department of Health, in cooperation~~
66 ~~with the Florida Endowment Foundation for Vocational~~
67 ~~Rehabilitation,~~ shall provide ~~develop a~~ training to program
68 participants on hiring and managing a personal care attendant
69 and, in cooperation with the oversight group described in
70 paragraph (b), adopt and revise the policies and procedures
71 governing the personal care attendant program and the training
72 program.
73 (b) The oversight group shall include, but need not be
74 limited to, a member of the Florida Association of Centers for
75 Independent Living, a person who is participating in the
76 program, and one representative each from the Department of
77 Revenue, the Department of Children and Family Services, the
78 Division of Vocational Rehabilitation in the Department of
79 Education, the Florida Medicaid Program in the Agency for Health
80 Care Administration, the Florida Endowment Foundation for
81 Vocational Rehabilitation, and the Brain and Spinal Cord Injury
82 Program in the Department of Health ~~program for personal care~~
83 ~~attendants~~.

84 ~~(4) The association, in cooperation with the Department of~~
85 ~~Health and the Florida Endowment Foundation for Vocational~~
86 ~~Rehabilitation, shall establish procedures for selecting persons~~
87 ~~eligible under subsection (1) to participate in the program.~~
88 ~~(5) The association, in cooperation with the Department of~~
89 ~~Revenue, the Brain and Spinal Cord Injury Program in the~~
90 ~~Department of Health, the Florida Medicaid program in the Agency~~
91 ~~for Health Care Administration, a representative from the state~~
92 ~~attorney's office in each of the judicial circuits participating~~
93 ~~in the program, the Florida Endowment Foundation for Vocational~~
94 ~~Rehabilitation, and the Division of Vocational Rehabilitation of~~
95 ~~the Department of Education, shall develop a plan for~~
96 ~~implementation of the program.~~
97 ~~(6) The Department of Health shall establish an oversight~~
98 ~~workgroup for the personal care attendant program to oversee the~~
99 ~~implementation and administration of the program. The workgroup~~
100 ~~shall be composed of one representative from the Brain and~~
101 ~~Spinal Cord Injury Program in the Department of Health, one~~
102 ~~representative from the Department of Revenue, one~~
103 ~~representative from the Florida Medicaid Program in the Agency~~
104 ~~for Health Care Administration, one representative from the~~
105 ~~Florida Endowment Foundation for Vocational Rehabilitation, one~~
106 ~~representative from the Florida Association of Centers for~~
107 ~~Independent Living, one representative from the Division of~~
108 ~~Vocational Rehabilitation of the Department of Education, and~~
109 ~~two members who are persons with traumatic spinal cord injuries~~
110 ~~or are family members of persons with traumatic spinal cord~~
111 ~~injuries.~~
112 Section 2. Subsections (1) and (2) of section 413.4021,
113 Florida Statutes, are amended to read:

114 413.4021 Program participant selection; tax collection
115 enforcement diversion program.--The Department of Revenue, in
116 coordination with the Florida Association of Centers for
117 Independent Living and the Florida Prosecuting Attorneys
118 Association, shall select judicial circuits in which to operate
119 the program. The association and the state attorneys' offices
120 shall develop and implement a tax collection enforcement
121 diversion program, which shall collect revenue due from persons
122 who have not remitted their collected sales tax. The criteria
123 for referral to the tax collection enforcement diversion program
124 shall be determined cooperatively between the state attorneys'
125 offices and the Department of Revenue.
126 (1) Notwithstanding the provisions of s. 212.20, 90 ~~50~~
127 percent of the revenues collected from the tax collection
128 enforcement diversion program shall be deposited into the
129 operating account of the Florida Endowment Foundation for
130 Vocational Rehabilitation, to be used to administer the personal
131 care attendant program and to contract with the state attorneys
132 participating in the tax collection enforcement diversion
133 program in an amount of not more than $50,000 for each state
134 attorney.
135 (2) The program shall operate only from funds deposited
136 into the operating account of the Florida Endowment Foundation
137 for Vocational Rehabilitation. ~~The Florida Endowment Foundation~~
138 ~~for Vocational Rehabilitation shall select the entity to~~
139 ~~administer the personal care attendant program.~~
140 Section 3. Notwithstanding any other law, each person
141 enrolled in the personal care attendant program under s.
142 413.402, Florida Statutes, on June 30, 2007, and each person
143 enrolled in the pilot personal care attendant program in Lake,
144 Orange, Osceola, and Seminole counties as authorized in Specific

145 Appropriation 340, Chapter 2006-25, Laws of Florida, on June 30,
146 2007, is automatically eligible for and enrolled in the personal
147 care attendant program, as amended by this act on July 1, 2007.
148 Section 4. This act shall take effect July 1, 2007.
149
150
151 ========== T I T L E A M E N D M E N T ==========
152 Remove the entire title and insert:
153 A bill to be entitled
154 An act relating to the personal care attendant program;
155 amending s. 413.402, F.S.; revising provisions governing a
156 program to provide personal care attendants for persons
157 who have disabilities; directing the Florida Endowment
158 Foundation for Vocational Rehabilitation to enter into an
159 agreement with the Florida Association of Centers for
160 Independent Living to administer a program to provide such
161 attendants to persons who have severe and chronic
162 disabilities; providing for payment for administration of
163 the program; removing a provision requiring interagency
164 memoranda of agreement; revising eligibility requirements
165 for persons to participate in the personal care attendant
166 program; removing provisions concerning the training,
167 selection, and recruitment of personal care attendants;
168 providing for training of program participants concerning
169 hiring and managing an attendant; providing for the ~~review~~
170 adoption and revision of program policies and procedures
171 by the association in cooperation with an oversight group;
172 providing for membership in the oversight group; amending
173 s. 413.4021, F.S.; increasing the percentage of revenues
174 collected from persons who fail to remit sales tax that is
175 deposited in the operating account of the Florida

176 Endowment Foundation for Vocational Rehabilitation to
177 administer the program; deleting a requirement that the
178 Florida Endowment Foundation for Vocational Rehabilitation
179 select an entity to administer the program; providing for
180 automatic enrollment in the program for certain persons;
181 providing an effective date.