

## CHAPTER 2017-75

### Committee Substitute for Committee Substitute for Senate Bill No. 890

An act relating to direct-support organizations; amending s. 20.058, F.S.; requiring a contract between an agency and a citizen support organization or direct-support organization to include a provision for the orderly cessation of operations and reversion of state funds within a specified timeframe; amending ss. 318.21, 320.08068, and 320.0848, F.S.; revising provisions relating to the distribution of proceeds from civil penalties for traffic infractions, the sale of motorcycle specialty license plates, and temporary disabled parking permits, respectively; requiring that certain proceeds be deposited into the Grants and Donations Trust Fund of the Division of Vocational Rehabilitation, instead of the Florida Endowment Foundation for Vocational Rehabilitation; amending s. 413.402, F.S.; deleting a requirement that a specified agreement be maintained between the foundation and the Florida Association of Centers for Independent Living; requiring the association to administer the James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program; reducing the maximum percentage of certain funds authorized for program operation, administration, and oversight; requiring the program's oversight council to submit an annual report to the Governor, Legislature, and Commissioner of Education by a specified date; amending s. 413.4021, F.S.; requiring a specified percentage of certain revenues to be deposited into the Florida Association of Centers for Independent Living special reserve account to administer specified programs; amending s. 413.615, F.S.; requiring separate accounts for certain funds received from state sources and public or private sources; providing requirements for the contract between the Florida Endowment Foundation for Vocational Rehabilitation and the Division of Vocational Rehabilitation; providing additional duties of the foundation; requiring the foundation to publish certain information on its website; requiring certain funding allocations to be subject to a competitive solicitation process; prohibiting the use of state funds for certain purposes; specifying data to be included in an annual report to the Governor, Legislature, and Commissioner of Education and revising the report submission date; extending the date for future review and repeal of provisions relating to the Florida Endowment for Vocational Rehabilitation Act; requiring the foundation to transfer funds to specified entities for certain purposes; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (4) of section 20.058, Florida Statutes, is amended to read:

20.058 Citizen support and direct-support organizations.—

(4) Any contract between an agency and a citizen support organization or direct-support organization must be contingent upon the organization's submission and posting of information pursuant to subsections (1) and (2) and must include a provision for the orderly cessation of operations and reversion to the state of state funds held in trust by the organization within 30 days after its authorizing statute is repealed, the contract is terminated, or the organization is dissolved. If an organization fails to submit the required information for 2 consecutive years, the agency head shall terminate any contract between the agency and the organization.

Section 2. Paragraph (e) of subsection (2) and subsection (5) of section 318.21, Florida Statutes, are amended to read:

318.21 Disposition of civil penalties by county courts.—All civil penalties received by a county court pursuant to the provisions of this chapter shall be distributed and paid monthly as follows:

(2) Of the remainder:

(e) Two percent shall be remitted to the Department of Revenue for deposit in the Grants and Donations Trust Fund of the Division of and transmitted monthly to the Florida Endowment Foundation for Vocational Rehabilitation of the Department of Education as provided in s. 413.615.

(5) Of the additional fine assessed under s. 318.18(3)(f) for a violation of s. 316.1303(1), 60 percent must be remitted to the Department of Revenue for deposit in the Grants and Donations Trust Fund of the Division of and transmitted monthly to the Florida Endowment Foundation for Vocational Rehabilitation of the Department of Education, and 40 percent must be distributed pursuant to subsections (1) and (2).

Section 3. Subsection (4) of section 320.08068, Florida Statutes, is amended to read:

320.08068 Motorcycle specialty license plates.—

(4) A license plate annual use fee of \$20 shall be collected for each motorcycle specialty license plate. Annual use fees shall be distributed to ~~The Able Trust as custodial agent. The Able Trust may retain a maximum of 10 percent of the proceeds from the sale of the license plate for administrative costs. The Able Trust shall distribute the remaining funds as follows:~~

(a) Twenty percent to the Brain and Spinal Cord Injury Program Trust Fund.

(b) Twenty percent to Prevent Blindness Florida.

(c) Twenty percent to the Blind Services Foundation of Florida.

(d) Twenty percent to the Florida Association of Centers for Independent Living Endowment Foundation for Vocational Rehabilitation to support the

James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program pursuant to s. 413.402.

(e) Twenty percent to the Florida Association of Centers for Independent Living.

Section 4. Paragraph (c) of subsection (4) of section 320.0848, Florida Statutes, is amended to read:

320.0848 Persons who have disabilities; issuance of disabled parking permits; temporary permits; permits for certain providers of transportation services to persons who have disabilities.—

(4) From the proceeds of the temporary disabled parking permit fees:

(c) The remainder must be distributed monthly as follows:

1. ~~To be deposited in the Grants and Donations Trust Fund of the Division of the Florida Endowment Foundation for Vocational Rehabilitation of the Department of Education, known as “The Able Trust,” for the purpose of improving employment and training opportunities for persons who have disabilities, with special emphasis on removing transportation barriers, \$4. These fees must be directly deposited into the Florida Endowment Foundation for Vocational Rehabilitation as established in s. 413.615.~~

2. ~~To be deposited in the Transportation Disadvantaged Trust Fund to be used for funding matching grants to counties for the purpose of improving transportation of persons who have disabilities, \$5.~~

Section 5. Section 413.402, Florida Statutes, is amended to read:

413.402 James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program.—~~The Florida Endowment Foundation for Vocational Rehabilitation shall maintain an agreement with the Florida Association of Centers for Independent Living shall to administer the James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program and shall remit sufficient funds monthly to meet the requirements of subsection (5).~~

(1) As used in this section, the term “competitive and integrated employment” means employment in the public or private sector in which the employee earns comparable wages and benefits, commensurate with his or her qualifications and experience, and works in comparable conditions to those experienced by the general workforce in that industry or profession.

(2) The program shall provide personal care attendants and other support and services necessary to enable persons eligible under subsection (3) who have significant and chronic disabilities to obtain or maintain competitive and integrated employment, including self-employment.

(3) In order to be eligible to participate in the program, a person must:

(a) Be at least 18 years of age, be a legal resident of this state, and be significantly and chronically disabled.

(b) As determined by a physician, psychologist, or psychiatrist, require a personal care attendant for assistance with or support for at least two activities of daily living as defined in s. 429.02.

(c) Require a personal care attendant and, as needed, other support and services to accept an offer of employment and commence working or to maintain competitive and integrated employment.

(d) Be able to acquire and direct the support and services provided pursuant to this section, including the services of a personal care attendant.

(4)(a) The Florida Association of Centers for Independent Living shall provide program participants with appropriate training on the hiring and management of a personal care attendant and on other self-advocacy skills needed to effectively access and manage the support and services provided under this section.

(b) In cooperation with the oversight council created in subsection (6), the Florida Association of Centers for Independent Living shall adopt and, as necessary, revise the policies and procedures governing the operation of the program and the training required in paragraph (a). The oversight council shall recommend the maximum monthly reimbursement provided to program participants. The association shall provide technical assistance to program participants and administrative support services to the program and implement appropriate internal financial controls to ensure program integrity.

(5) The James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program shall reimburse the Florida Association of Centers for Independent Living monthly for payments made to program participants and for costs associated with program administration and oversight in accordance with the annual operating budget approved by the board of directors of the association, taking into consideration recommendations made by the oversight council created under subsection (6). The annual operating budget for costs associated with activities of the association for program operation, administration, and oversight may not exceed 10 ~~12~~ percent of the funds provided ~~deposited with the Florida Endowment Foundation for Vocational Rehabilitation~~ pursuant to ss. 320.08068(4)(d) and 413.4021(1) for the previous fiscal year or the budget approved for the previous fiscal year, whichever amount is greater.

(6) The James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program Oversight Council is created adjunct to the Department of Education for the purpose of providing program recommendations, recommending the maximum monthly

reimbursement available to program participants, advising the Florida Association of Centers for Independent Living on policies and procedures, and recommending the program's annual operating budget for activities of the association associated with operations, administration, and oversight. The oversight council shall also advise on and recommend the schedule of eligible services for which program participants may be reimbursed subject to the requirements and limitations of paragraph (3)(c) which, at a minimum, must include personal care attendant services. The oversight council shall advise and make its recommendations under this section to the board of directors of the association. The oversight council is not subject to the control of or direction by the department, and the department is not responsible for providing staff support or paying any expenses incurred by the oversight council in the performance of its duties.

(a) The oversight council consists of the following members:

1. The director of the division or his or her designee;
2. A human resources professional or an individual who has significant experience managing and operating a business based in this state, recommended by the Florida Chamber of Commerce and appointed by the Governor;
3. A financial management professional, appointed by the Governor;
4. A program participant, appointed by the Secretary of Health or his or her designee;
5. The director of the advisory council on brain and spinal cord injuries or his or her designee;
6. The director of the Florida Endowment Foundation for Vocational Rehabilitation or his or her designee; and
7. The director of the Florida Association of Centers for Independent Living or his or her designee.

(b) The appointed members shall serve for a term concurrent with the term of the official who made the appointment and shall serve at the pleasure of such official.

(c) By February 1 of each year, the oversight council shall submit a report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Commissioner of Education which summarizes the performance of the program.

Section 6. Subsections (1) and (2) of section 413.4021, Florida Statutes, are amended to read:

413.4021 Program participant selection; tax collection enforcement diversion program.—The Department of Revenue, in coordination with

the Florida Association of Centers for Independent Living and the Florida Prosecuting Attorneys Association, shall select judicial circuits in which to operate the program. The association and the state attorneys' offices shall develop and implement a tax collection enforcement diversion program, which shall collect revenue due from persons who have not remitted their collected sales tax. The criteria for referral to the tax collection enforcement diversion program shall be determined cooperatively between the state attorneys' offices and the Department of Revenue.

(1) Notwithstanding s. 212.20, 50 percent of the revenues collected from the tax collection enforcement diversion program shall be deposited into the special reserve account of the Florida Association of Centers for Independent Living Endowment Foundation for Vocational Rehabilitation, to be used to administer the James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program and to contract with the state attorneys participating in the tax collection enforcement diversion program in an amount of not more than \$75,000 for each state attorney.

(2) The program shall operate only from funds deposited into the operating account of the Florida Association of Centers for Independent Living Endowment Foundation for Vocational Rehabilitation.

Section 7. Subsections (4), (6), (10), (12), and (14) of section 413.615, Florida Statutes, are amended, and paragraphs (j) and (k) are added to subsection (9) of that section, to read:

413.615 Florida Endowment for Vocational Rehabilitation.—

(4) REVENUE FOR THE ENDOWMENT FUND.—

(a) The endowment fund of the Florida Endowment for Vocational Rehabilitation is created as a long-term, stable, and growing source of revenue to be administered, in accordance with rules promulgated by the division, by the foundation as a direct-support organization of the division.

(b) The principal of the endowment fund shall derive from ~~the deposits made pursuant to s. 318.21(2)(e), together with~~ any legislative appropriations which may be made to the endowment, and such bequests, gifts, grants, and donations as may be solicited for such purpose by the foundation from public or private sources.

(c) ~~All funds remitted to the Department of Revenue pursuant to s. 318.21(2)(e) and (5) shall be transmitted monthly to the foundation for use as provided in subsection (10).~~ All remaining liquid balances of funds held for investment and reinvestment by the State Board of Administration for the endowment fund on the effective date of this act shall be transmitted to the foundation within 60 days for use as provided in subsection (10).

(d) The board of directors of the foundation shall establish the operating account and shall deposit therein the moneys transmitted pursuant to

paragraph (c). Moneys in the operating account shall be available to carry out the purposes of subsection (10).

(e) Funds received from state sources shall be accounted for separately from bequests, gifts, grants, and donations which may be solicited for such purposes by the foundation from public or private sources. Earnings on funds received from state sources and funds received from public or private sources shall be accounted for separately.

(6) DIRECT-SUPPORT ORGANIZATION CONTRACT.—The contract between the foundation and the division shall provide for:

(a) Approval of the articles of incorporation of the foundation by the division.

(b) Governance of the foundation by a board of directors appointed by the Governor.

(c) Submission of an annual budget of the foundation for approval by the division. The division may not approve an annual budget that does not comply with paragraph (9)(j).

(d) Certification by the division, after an annual financial and performance review, that the foundation is operating in compliance with the terms of the contract and the rules of the division, and in a manner consistent with the goals of the Legislature in providing assistance to disabled citizens.

(e) The release and conditions of the expenditure of any state revenues.

(f) The orderly cessation of operations and reversion to the state of moneys in the foundation and in any other funds and accounts held in trust by the foundation if the contract is terminated, the foundation is dissolved, or this section is repealed.

(g) The fiscal year of the foundation, to begin on July 1 and end on June 30 of each year.

(9) ORGANIZATION, POWERS, AND DUTIES.—Within the limits prescribed in this section or by rule of the division:

(j) Administrative costs shall be kept to the minimum amount necessary for the efficient and effective administration of the foundation and are limited to 15 percent of total estimated expenditures in any calendar year. Administrative costs include payment of travel and per diem expenses of board members, officer salaries, chief executive officer program management, audits, salaries or other costs for nonofficers and contractors providing services that are not directly related to the mission of the foundation as described in subsection (5), costs of promoting the purposes of the foundation, and other allowable costs. Administrative costs may be paid from the following sources:

1. Interest and earnings on the endowment principal for the 2017-2018 fiscal year.

2. Private sources and up to 75 percent of interest and earnings on the endowment principal for the 2018-2019 fiscal year.

3. Private sources and up to 50 percent of interest and earnings on the endowment principal for the 2019-2020 fiscal year.

4. Private sources and up to 25 percent of interest and earnings on the endowment principal for the 2020-2021 fiscal year.

5. Solely private sources for the 2021-2022 fiscal year and thereafter.

(k) The foundation shall publish on its website:

1. The annual audit required by subsection (11) and the annual report required by subsection (12).

2. For each position filled by an officer or employee, the position's compensation level.

3. A copy of each contract into which the foundation enters.

4. Information on each program, gift, or grant funded by the foundation, including:

a. Projected economic benefits at the time of the initial award date.

b. Information describing the program, gift, or grant funded.

c. The geographic area impacted.

d. Any matching, in-kind support or other support.

e. The expected duration.

f. Evaluation criteria.

5. The foundation's contract with the division required by subsection (6).

(10) DISTRIBUTION OF MONEYS.—The board shall use the moneys in the operating account, by whatever means, to provide for:

(a) Planning, research, and policy development for issues related to the employment and training of disabled citizens, and publication and dissemination of such information as may serve the objectives of this section.

(b) Promotion of initiatives for disabled citizens.

(c) Funding of programs which engage in, contract for, foster, finance, or aid in job training and counseling for disabled citizens or research, education, demonstration, or other activities related thereto.



(d) Funding of programs which engage in, contract for, foster, finance, or aid in activities designed to advance better public understanding and appreciation of the field of vocational rehabilitation.

(e) Funding of programs, property, or facilities which aid, strengthen, and extend in any proper and useful manner the objectives, work, services, and physical facilities of the division, in accordance with the purposes of this section.

Any allocation of funds for research, advertising, or consulting shall be subject to a competitive solicitation process. State funds may not be used to fund events for private sector donors or potential donors or to honor supporters.

(12) ANNUAL REPORT.—The board shall issue a report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Commissioner of Education by December 30 February 1 each year, summarizing the performance of the endowment fund for the previous fiscal year, summarizing the foundation’s fundraising activities and performance, and detailing those activities and programs supported by the endowment principal or earnings on the endowment principal and those activities and programs supported by private sources, or by bequests, gifts, grants, donations, and other valued goods and services received. The report shall also include:

(a) Financial data, by service type, including expenditures for administration and the provision of services.

(b) The amount of funds spent on administrative expenses and fundraising and the amount of funds raised from private sources.

(c) Outcome data, including the number of individuals served and employment outcomes.

(14) REPEAL.—This section is repealed October 1, 2019 2017, unless reviewed and saved from repeal by the Legislature.

Section 8. The Florida Endowment Foundation for Vocational Rehabilitation shall transfer any funds received pursuant to s. 320.08068(4), Florida Statutes, to the entities identified in s. 320.08068(4)(a)-(e), Florida Statutes, in accordance with the requirements of this act. Any funds held in the special reserve account under s. 413.4021(1), Florida Statutes, to administer the James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program shall be immediately transferred to the Florida Association of Centers for Independent Living to provide for continuity of participant payments and essential program operations.

Section 9. This act shall take effect July 1, 2017.

Approved by the Governor June 9, 2017.

Filed in Office Secretary of State June 9, 2017.