

Capitol Update



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Developmental Disabilities Budget Outcomes

Agency for Persons with Disabilities Budget- The Agency budget of \$1,014,963,478 includes an \$810,437,372 Waiver allocation. This is \$5 million more than last year, but advocates are concerned about the deficit for next year, because only half of the projected deficit amount was funded.

The largest reductions and increases are in the chart below:

Cuts for the Agency for Persons with Disabilities (APD)	Amount (in millions)
4% across the board DD/HCBS Waiver provider rate cut	-36.4 -6.3(ICF/DD)
Freeze cost plans	-6.9
Cover Waiver deficit for FY 2011-12 (\$110.4 mil)	+54.5 (this amount represents half of the additional funds that were needed)

Proviso language highlights for APD as follows;

- The Agency for Health Care Administration, in consultation with the Agency for Persons with Disabilities, is authorized to transfer funds, for the Developmental Disabilities Home and Community based waiver, Tier 1 through 3; Family Supported Living Waiver (Tier 4); and the

Developmental Disabilities Individual Budget Waiver; to transition the greatest number of appropriated eligible beneficiaries from ICF/DD to community based alternatives in order to maximize the reduction in Medicaid ICF/DD occupancy. Priority for the use of these funds will be given to the planning and services areas with the greatest potential for transition success.

- **\$500,000** in nonrecurring funds from the General Revenue Fund is provided for the Dan Marino Foundation Florida Vocational College in Broward County.
- **\$500,000** in nonrecurring funds from the General Revenue Fund is provided for the Loveland Center, Inc., in Sarasota County.
- **\$650,000** in nonrecurring funds from the General Revenue Fund is provided for Quest Kids.
- The cost plan freeze is in effect on April 1, 2011, pursuant to s.339.0661(8), F.S., from July 1, 2011, through June 30, 2012; until the agency implements an approved plan that contains expanding costs within the waiver; or until all clients are transferred into the iBudget, whichever comes first.
- The Agency for Persons with Disabilities shall provide to the Governor, the President of the Senate and the Speaker of the House of Representatives monthly surplus-deficit reports projecting the total Medicaid Waiver program expenditures for the fiscal year along with any corrective action plans necessary to align program expenditures with annual appropriations. Prior to the submission of the first report, the Social Services Estimating Conference shall approve the reporting format, as well as establish a baseline based on the appropriations contained herein. The adopted baseline shall serve as the sole basis of comparison for any projected surpluses or deficits reflected in the reports, and discrete adjustments shall be made with a separate entry showing each change.
- The Agency for Persons with Disabilities shall work with the Agency for Health Care Administration and other stakeholders to develop a plan that will result in sufficient fiscal and operational controls to allow the Agency for Persons with Disabilities to manage Medicaid waiver spending within the legislative appropriation. The plan shall include, but not be limited to, increased oversight of individual cost plans; a clear definition of the roles of providers and waiver support coordinators in monitoring those cost plans; and a description of the services provided under each of the consolidated service titles or categories. The Agency for Persons with Disabilities shall submit the plan to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than September 1, 2011.

Exceptional Student Education Budget Items

The Council received a **side-by-side final budget** from the Florida Department of Education that is particularly important for students with developmental disabilities.

Some of the proposed budget items we are following include;

The Base Student Allocation (BSA) which affects all students is \$3, 479.22 per student in the final budget. This represents a 4.0 % cut from last year. Students with disabilities receive more money on top of this amount per student if they have a particular classification (please see the side-by-side chart). While some of these classifications have small increases, the ESE Guaranteed Student Allocation which affects a large number of students in the Exceptional Student Education system is reduced by 3.8 %. Other budget line items include 20.2% cuts for CARD (Center for Autism and Related Disabilities) Centers and 14.5 to 31.4% for FDLRS (The Florida Diagnostic & Learning Resources System) University Centers.

Another educational area of interest is the Florida Alliance for Assistive Services and Technology. Their budget remains at \$444,413.00.

Division of Vocational Rehabilitation(DVR) Budget Issues

The Bureau of Rehabilitation and Reemployment Services (BRRS) will be left with only one-third of the Human and Financial resources that BRRS currently has in the Fiscal Year 2010-11 budget. This represents **a reduction of 55 positions and \$5,166,623** in funding. To the extent possible, vacancies in DVR Field Services that are identified as possible options in lieu of lay-off are being held vacant so many of the displaced BRRS employees will have an option for continued employment. This includes vacant positions in the VR Counselor category, Rehabilitation Technician positions, and administrative support positions. DVR will not be able to accommodate 100 percent of the employees displaced by a reduction of 55 positions, but will be able to accommodate a majority of the affected BRRS employees. This budget and FTE reduction is by far the worst news within this year's budget for our Division, our employees, and for injured workers.

Much of the Division of Vocational Rehabilitation (DVR) budget will be maintained at current funding levels for the upcoming fiscal year. **The Centers for Independent Living, the Able Trust High School/High Tech, and the Florida Alliance for Assistive Services and Technology are held at their current funding levels and will not experience any reductions.**

The DVR Field Services Program will maintain basically the same level of funding as the current fiscal year. As was requested by DVR, \$3,712,195 in funding is shifted from Purchased Client Services to Contracted Services to accommodate the establishment of two additional DVR field offices, with staffing through a contractual relationship with a private, not-for-profit organization. This will assist the Division in increasing the Human Resources available to serve current and future Vocational Rehabilitation customers, thereby addressing the growing caseload size. Funds will also be expended on the seven Innovation and Expansion contracts that were recently posted through an Invitation to Negotiate. These contracts will be used for innovative approaches to provide services to individuals with most significant disabilities.

The Adults with Disabilities program will be reduced by 15 percent (\$2,074,772).

The budget will be effective July 1, 2011 through June 30, 2012.

Early Steps/ Part C was funded at a **\$7.8 million** of the \$12.6 million that was needed to run the program with certainty. Advocates are working to assure that the Medicaid funding for the Medicaid eligible participants in this program is used effectively so that Part C dollars will not have to fund services that Medicaid should pick-up. This will give the program more total dollars.

Medicaid Managed Care

SB 1972 and **HB 7107** are the Managed Care bills that have been outlined in several Capitol Updates.

Legislators worked on compromise language that changed HB 7107 and HB 7109(the conforming bill) into the final Medicaid Managed Care bill that passed the legislature. Individuals with developmental disabilities (as defined in Fl.ch. 393) were carved out of the managed care proposal that will require federal approval. Down syndrome was added as an excluded diagnosis as well. It is important to mention that those individuals on the HCBS Waitlist were also excluded. Individuals with developmental disabilities who are Medicaid eligible must have some type of Medicaid plan and if one is not chosen, then a plan will be assigned to them.

There is a provision to study the cost to the state of implementing a sliding fee scale to parents of individuals with developmental disabilities who have a family income of over 100% of the federal poverty level.

The ibudget will be given a chance to equitably control costs over a two year period. If there are still agency deficits in the DD/Home and Community Based Waiver Program, then another system will be developed.

Bills that Passed

SB 912 <http://www.flsenate.gov/Session/Bill/2011/0912> - **Relating to Affordable Housing- Bennett**

The Florida Supportive Housing Coalition and the Florida Housing Coalition promoted this legislation that addresses a broad range of housing issues. **S.B. 912** has exactly the same language as the legislation from last session that nearly passed.

The measure removes the current cap on the Sadowski Trust Fund, and requires that housing funding over the next year be used to assist in the sale or rehabilitation of existing homes and preservation and rehabilitation of older rental apartments. The bill also establishes statutory language written by the Florida Supportive Housing Coalition that defines ‘disabling condition’ and ‘special needs.’

“Disabling condition” means a diagnosable substance abuse disorder, serious mental illness, developmental disability, or chronic physical illness or disability, or the co-occurrence of two or more of these conditions, and a determination that the condition is:

(a) Expected to be of long-continued and indefinite duration; and

(b) Not expected to impair the ability of the person with special needs to live independently with appropriate supports.

The legislation also: includes persons with special needs in the housing strategy's periodic review and report; requires certain rates of interest to be available to sponsors of projects for persons with special needs; limits the reservation of funds within each notice of fund availability to the persons with special needs tenants; includes persons with special needs as a tenant group for specified purposes of the State Apartment Incentive Loan program; requires a specified review committee to include projects that reserve units for persons with special needs in its evaluation and competitive ranking of applications.

The Council is supporting this bill.

EFFECTIVE DATE: July 1, 2011

5/03/11 SENATE Read Second Time; Substituted for HB 0639; Laid on Table, Refer to HB 0639

Identical

HB 639- Relating to Affordable Housing by Aubuchon

05/03/11 SENATE Withdrawn from Community Affairs; Children, Families, and Elder Affairs; Budget; Placed on Calendar, on second reading; Substituted for SB 0912; Read Second Time; Read Third Time;

Passed (Vote: 37 Yeas / 2 Nays)

SB 1192 <http://www.flsenate.gov/Session/Bill/2011/1192> - Relating to Public Records/Regional Autism Centers- Rich

This bill provides an exemption from public records requirements for all records that relate to a client of a regional autism center, the client's family, or a teacher or other professional who receives the services of a center or participates in center activities. The bill provides for release of specified confidential and exempt information by a center under certain circumstances and generally strengthens and clarifies confidentiality issues for those who use the services of the Regional Autism Centers. **The Council supports this bill.**

EFFECTIVE DATE: July 1, 2011

4/29/11 SENATE Read Second Time; Substituted for HB 0579; Laid on Table, Refer to HB 0579

Identical

HB 0579 Relating to Pub. Rec./Regional Autism Centers by Coley

4/29/11 SENATE Withdrawn from Children, Families, and Elder Affairs; Health Regulation; Governmental Oversight and Accountability; Placed on Calendar, on second reading; Substituted for SB 1192; Read Second Time; Read Third Time;

Passed (Vote: 37 Yeas / 0 Nays)

SB 1656 <http://myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=46292&SessionIndex=-1&SessionId=66&BillText=&BillNumber=1656&BillSponsorIndex=0&BillListIndex=0&BillStatuteText=&BillTypeIndex=0&BillReferredIndex=0&HouseChamber=S&BillSearchIndex=0>

Relating to McKay Scholarships/Students with Disabilities- Wise

This bill makes the John M. McKay Scholarship available to students with disabilities who have a 504 accommodation plan issued under s. 504 of the federal Rehabilitation Act. The bill allows a parent to request and receive a scholarship for a student to enroll and attend a private school if the student has a 504 accommodation plan. The bill provides for scholarship amounts when a student is eligible for scholarship funds. **The Council is neutral on this bill.**

EFFECTIVE DATE: July 1, 2011

04/29/11 SENATE Read Second Time; Substituted for HB 1329; Laid on Table, Refer to HB 1329

Identical Bill

HB 1329 Relating to John M. McKay Scholarships for Students with Disabilities by Bileca

5/02/11 SENATE Read Third Time;

Passed (Vote: 28 Yeas / 9 Nays)

SB 926 <http://www.flsenate.gov/Session/Bill/2011/0926> **Relating to Liability/Employers of Developmentally Disabled - Storms**

This bill provides that an employer, under certain circumstances, is not liable for the acts or omissions of an employee who is a person with a developmental disability as defined in Chapter 393. The bill provides that a supported employment service provider that provides or has provided supported employment services to a person with a developmental disability is not liable for the actions or conduct of the person occurring within the scope of the person's employment.

The Council has the following concerns about this bill;

- The bill goes against studies that show persons with disabilities (including developmental disabilities) are no more “unsafe” than an employee without a disability.
- Even if one would find reason to support a bill such as this, why are persons with a “developmental disability” being singled out as unsafe? Just the existence of this bill could be used by employers as an excuse not to “take a chance” on hiring a person with a developmental disability.
- The observation that workers compensation carriers may view this bill as a reason to increase provider and employer workers compensation rates due to the perceived increased risk.
- The bill could actually increase the liability faced by the individual with a developmental disability or leave them as the only person exposed.
- The bill could be a disincentive to the hiring of people with a developmental disability *who do not require* supported employment because the waiver of liability would not be there.
- The bill could have an unfair impact on people with other disabilities (for example, Vocational Rehabilitation clients who are not people with a developmental disability) who also use supported employment. And it could negatively impact the hiring of people with other disabilities who do not use or cannot access supported employment?

The Council is opposing this bill.

EFFECTIVE DATE: July 1, 2011

5/04/11 HOUSE Read Third Time;

Passed (Vote: 106 Yeas / 11 Nays)

Identical

HB 405 Relating to Employment Liability for Persons with Disabilities by Baxley

5/03/11 HOUSE Laid on Table, refer to S 0926

1696 Relating to Education Accountability- Wise

This bill deletes a provision that requires the Florida Virtual School to be administratively housed within the Office of Technology and Information Services within the Office of the Commissioner of Education. The bill revises the powers and duties of district school boards relating to student access to Florida Virtual School courses. The bill prohibits district school board members and their relatives from soliciting or accepting certain gifts. The bill also includes language strengthening the Restraint and Seclusion reporting and planning requirements. Finally, the bill includes language for a reasonable time frame to be assessed for assistive technology. EFFECTIVE DATE: upon becoming a law, except as otherwise provided
5/02/11 SENATE Read Second Time; Amendments Adopted (224100, 401838, 571918, 587260, 668172, 675854, 846486); Amendments Failed (585692, 892496, 945922); Substituted for HB 1255; Laid on Table, Refer to HB 1255

Similar

HB 1255 Relating to Education Accountability by Adkins

5/02/11 HOUSE Read Third Time; Passed (Vote: 112 Yeas / 0 Nays)

SENATE In Messages

SENATE Received; Referred to Education Pre-K - 12; Budget Subcommittee on Education Pre-K - 12 Appropriations; Budget; Withdrawn from Education Pre-K - 12; Budget Subcommittee on Education Pre-K - 12

Appropriations; Budget; Placed on Calendar, on second reading; Substituted for SB 1696; Read Second Time; Amendment Adopted (287776); Amendment Failed (607698)

SENATE Placed on Third Reading

5/06/11 SENATE Read Third Time; Passed (Vote: 31 Yeas / 8 Nays)

HOUSE Received from Messages; Amendments Adopted (643243, 510789, 816693); Concurred with Amendment (287776); Passed (Vote: 94 Yeas / 23 Nays)

SENATE Received from Messages; Concurred with Amendments (510789, 643243, 816693);

Passed (Vote: 33 Yeas / 5 Nays)

HB 225 <http://myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=45102&SessionId=66>

Relating to Dentistry and Dental Hygiene- Costello

Dentistry and Dental Hygiene: This bill revises the scope and area of practice for dental hygienists. It revises locations at which dental hygienists may perform dental charting and authorizes dental hygienists to perform certain duties without supervision or authorization by a dentist. The bill requires that dental hygienists in a health access setting provide a certain disclaimer to patients before a procedure is performed. It requires that dental hygienists provide referrals and encourage the establishment of a dental home. It is hoped that this bill will open up more opportunities for dental care for those with developmental disabilities. Most of this bill passed on HB 1319(see below). **The Council supports this bill.**

2/01/11 HOUSE Referred to Health & Human Services Quality Subcommittee; Business & Consumer Affairs Subcommittee; Health Care Appropriations Subcommittee; Health & Human Services Committee

5/07/11 HOUSE Died in Business and Consumer Affairs Subcommittee

Identical

SB 446 Relating to Dentistry and Dental Hygiene by Hays

SENATE Died on Calendar

Compare

HB 1319 - Relating to Certificates and Licenses for Certain Health Care Practitioners by Harrell

5/03/11 SENATE Withdrawn from Health Regulation; Military Affairs, Space, and Domestic Security; Budget; Placed on Calendar, on second reading; Substituted for SB 1228; Read Second Time; Read Third Time;

Passed (Vote: 39 Yeas / 0 Nays)

Bills that Died

SB 528 <http://www.flsenate.gov/Session/Bill/2011/0528> -Relating to Creation of the Department of Health and Human Services- Oelrich

This bill would have created the Department of Health and Human Services. It provided for appointment of a Secretary of Health and Human Services by the Governor and establishes regions for the administration of program services. The bill also would have established the Central Office of Investigative Services and repeals provisions relating to the Department of Children and Family Services, Agency for Persons with Disabilities, Agency for Health Care Administration, and Department of Health.

The Council supports an Agency for Persons with Disabilities that is easily recognizable, and as autonomous as possible.

2/9/11 SENATE Referred to Health Regulation; Children, Families, and Elder Affairs; Governmental Oversight and Accountability; Budget

5/07/11 SENATE Died in Health Regulation

Identical

HB 0115 Relating to Creation of the Department of Health and Human Services by Adkins

5/07/11 HOUSE Died in Health and Human Services Quality Subcommittee

SB 566 <http://www.flsenate.gov/Session/Bill/2011/0566> - Relating to Special Health Care Needs/Adolescents/Young Adults -Wise

This bill would have established a program within the Division of Children's Medical Services Network in the Department of Health to implement a health care transition program for adolescents and young adults who have special health care needs. The bill specified duties of the office with respect to the oversight, implementation, and coordination of the program. The bill required that at least one proposed health and transition services program be associated with each of the regions of the Children's Medical Services Network. The bill provided for education about Health Care Transition. **The Council supports this bill which is in line with the Council's legislative priority on Health Care Transition.**

2/09/11 SENATE Referred to Health Regulation; Children, Families, and Elder Affairs; Budget

5/07/11 SENATE Died in Health Regulation

SB 100 <http://www.flsenate.gov/Session/Bill/2011/0100> - Relating to Autism - Ring

This bill required that a physician refer a minor to an appropriate specialist for screening for autism spectrum disorder under certain circumstances. It would have required that certain insurers and health maintenance organizations provide direct patient access to an appropriate specialist for screening for or evaluations or diagnosis of autism spectrum disorder. **The Council supports this bill.**

5/07/11 SENATE Died in Budget

Identical

HB 1431 - Relating to Autism by Hager

5/07/11 HOUSE Died in Health and Human Services Quality Subcommittee

SB 208 <http://www.flsenate.gov/Session/Bill/2011/0208> Relating to Persons with Disabilities- Fasano

This bill provided that persons with developmental disabilities have a right to be free from negligence. It specifies that entities as well as individuals are liable for damages. The bill prohibited the operator of a public lodging or food establishment from discriminating on the basis of disability. This bill applied administrative and civil remedies available under the Florida Civil Rights Act of 1992 to certain violations against persons with disabilities. And the bill would have created the "Floridians with Disabilities Act". It does not give more rights than the federal ADA and it costs \$ 650,000 to the state for estimated court costs. **The Council is neutral on this bill.**

12/16/10 SENATE Referred to Children, Families, and Elder Affairs; Commerce and Tourism; Judiciary; Budget

5/07/11 SENATE Died in Children, Families, and Elder Affairs

SB 516 <http://www.flsenate.gov/Session/Bill/2011/0516> Relating to Autism- Garcia

This bill would have created the Autism Spectrum Disorder Study Committee to study autism spectrum disorder in families in which English is the second language. The bill provided for membership, meetings, and duties. It prohibits committee members from receiving compensation for their services. The bill authorized certain funding for publications, subject to approval of the State Surgeon General. The bill also required a report to the Governor and Legislature. **The Council is considering their position on this bill.**

2/09/11 SENATE Referred to Children, Families, and Elder Affairs; Governmental Oversight and Accountability; Budget

5/07/11 SENATE Died in Budget

Similar

HB 083 Relating to Autism by Soto

5/07/11 HOUSE Died in Health and Human Services Quality Subcommittee

SB 578 <http://www.flsenate.gov/Session/Bill/2011/0578> Relating to Disability Awareness- Ring

This bill would have required district school boards to provide disability history and awareness instruction in all K-12 public schools during the first week in October. It required certified individuals in disability awareness or teachers who specialize in exceptional student education to provide such instruction. The bill required the Governor's Commission on Disabilities to initiate a study on training in

disability awareness to be conducted by a private nonprofit entity. The bill required the commission to promote such training in all public entities in the state. There is already language in statute recognizing the first two weeks of October as Disability Awareness and History weeks. School districts may choose to have activities or classes during this time. The Council, the Department of Education (DOE), and other groups have encouraged school districts to participate by offering suggestions for public awareness activities and curriculum ideas. **The Council is neutral on these bills.**

05/07/11 SENATE Died on Calendar

Similar

SB 1262 Relating to Disability Awareness by Fasano

SENATE Died in Education Pre-K - 12

HB 0697 Relating to Disability Awareness by Kiar

HOUSE Died in K-20 Competitiveness Subcommittee

SB 1104 <http://www.flsenate.gov/Session/Bill/2011/1104> Relating to Intellectual Disabilities-Altman

This bill substituted The Arc of Florida for the Association for Retarded Citizens for purposes of certain proceedings relating to children. It substitutes the term "intellectual disability" for the term "mental retardation." It clarifies in provisions that the meaning of the terms "intellectual disability" or "intellectually disabled" is the same as the meaning of the terms "mental retardation," "retarded," and "mentally retarded" for purposes of matters relating to the criminal laws and court rules. **The Council supports this bill.**

3/1/11 SENATE Referred to Children, Families, and Elder Affairs; Criminal Justice; Budget

SENATE Died in Children, Families, and Elder Affairs

SB 1350 <http://www.flsenate.gov/Session/Bill/2011/1350> Relating to Students with Disabilities/Seclusion & Restraint Flores

This bill provided legislative findings and intent relating to the use, prevention, and reduction of seclusion and restraint on students with disabilities in public schools. It required that manual physical restraint be used only in an emergency when there is an imminent risk of serious injury or death to the student or others. It also provided restrictions on the use of manual physical restraint. It prohibited the use of such restraint by school personnel who are not certified to use district-approved methods for applying restraint techniques. **An amendment was added to the SB 1696, the school accountability bill significantly strengthening reporting requirements. The Council supports this bill which is in line with the Council's Position <http://www.fddc.org/about/restraint-and-seclusion> .**

3/7/11 SENATE Referred to Education Pre-K - 12; Health Regulation; Children, Families, and Elder Affairs; Budget

5/07/11 SENATE Died in Education Pre-K - 12

SB 1422 <http://www.flsenate.gov/Session/Bill/2011/1422> Relating to Developmental Disabilities-Altman

This bill established a Developmental Disabilities Savings Program to allow for the advance payment of services for individuals who have developmental disabilities and who will be ineligible for certain services due to age. It required the program to provide certain information. It provided that the program may not be implemented until certain legal opinions are obtained. The bill established the Developmental Disabilities Savings Program Board to administer the savings program.

3/7/11 SENATE Referred to Children, Families, and Elder Affairs; Budget

5/07/11 SENATE Died in Children, Families, and Elder Affairs

Similar

HB 911 Relating to Developmental Disabilities by Ford

5/07/11 HOUSE Died in Health and Human Services Access Subcommittee

SB 1616 <http://www.flsenate.gov/Session/Bill/2011/1616> Relating to Dan Marino Foundation Florida Vocational College -Flores

This bill would have established the Dan Marino Foundation Florida Vocational College in Broward County as a public residential post-secondary school for certain students who have developmental disabilities. It provided funding for the school through the Department of Education. It required that the Auditor General conduct annual audits of the school's accounts and records. It created a board of trustees. It also requires that all employees and applicants for employment with the board undergo personnel screenings and security background investigations. **The Council is neutral on this bill.**

03/24/11 SENATE Reference to Commerce and Tourism removed; Reference to Governmental Oversight and Accountability added; Remaining references: Governmental Oversight and Accountability; Budget

5/07/11 SENATE Died in Budget

Identical

HB 1451 Relating to Dan Marino Foundation Florida Vocational College by Diaz

5/07/11 HOUSE Died in Education Committee