The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

HEALTH POLICY
Senator Bean, Chair
Senator Sobel, Vice Chair

MEETING DATE: Tuesday, April 16, 2013
TIME: 1:30 —3:30 p.m.
PLACE: *Pat Thomas Committee Room,* 412 Knott Building

MEMBERS: Senator Bean, Chair; Senator Sobel, Vice Chair; Senators Brandes, Braynon, Flores, Galvano, Garcia, Grimsley, and Joyner

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
	Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointment to the office indicated.		
	State Surgeon General		
1	Armstrong, John H. (Ocala)	Pleasure of Governor	Recommend Confirm Yeas 9 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	Consideration of proposed committee bill:		
2	**SPB 7156**	County Medicaid Contributions; Specifying the initial contribution and revising the method for calculating county contributions; providing timetables for calculating contributions and for payment of contributions; deleting provisions specifying the care and services that counties must participate in, obsolete bond provisions, and a process for refund requests; specifying the method for calculating each county's contribution for the 2013-2014 fiscal year, etc.	Submitted as Committee Bill Yeas 9 Nays 0
3	**SM 1600** Bean (Identical HM 1105)	Health Insurance Tax; Urging Congress to repeal the health insurance tax contained in sections 9010 and 10905 of the Patient Protection and Affordable Care Act and section 1406 of the Health Care and Education Reconciliation Act, etc. HP 04/16/2013 Favorable	Favorable Yeas 6 Nays 3
4	**CS/SB 110** Children, Families, and Elder Affairs / Flores **(If Received)**	Florida Mental Health Act; Requiring the Department of Children and Families to convene a work group to review the Florida Mental Health Act to determine whether certain revisions are necessary; requiring the work group to submit a report to the Governor and the Legislature by a specified date, etc. CF 04/15/2013 Fav/CS HP 04/16/2013 Not Received JU	Not Received

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	**CS/SB 1384** Judiciary / Galvano (Compare H 869)	Nursing Home Litigation; Providing that a claim for punitive damages may not be brought unless there is a showing of admissible evidence proffered by the parties which provides a reasonable basis for recovery of punitive damages when certain criteria are applied; requiring the trier of fact to find by clear and convincing evidence that a specific person or corporate defendant actively and knowingly participated in intentional misconduct or engaged in conduct that constituted gross negligence and contributed to the loss, damages, or injury suffered by the claimant before punitive damages may be awarded, etc. JU 04/01/2013 Fav/CS HP 04/09/2013 Not Considered HP 04/16/2013 Fav/CS RC	Fav/CS Yeas 6 Nays 3
6	**SB 488** Braynon (Identical H 313)	Medicaid Dental Services; Authorizing the Agency for Health Care Administration to reimburse a health access setting operating as a Medicaid provider for dental services under certain conditions, etc. HP 04/16/2013 Not Considered CF AHS AP	Not Considered
	Other Related Meeting Documents		

The Florida Senate

Committee Notice Of Hearing

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of

John H. Armstrong

State Surgeon General

NOTICE OF HEARING

TO: Dr. John H. Armstrong

YOU ARE HEREBY NOTIFIED that the Committee on Health Policy of the Florida Senate will conduct a hearing on your executive appointment on Tuesday, April 16, 2013, in the Pat Thomas Committee Room, 412 Knott Building, commencing at 1:30 p.m., pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

Please be present at the time of the hearing.
DATED this the 11th day of April, 2013

Committee on Health Policy

Senator Aaron Bean
As Chair and by authority of the committee

cc: Members, Committee on Health Policy
Office of the Sergeant at Arms

RICK SCOTT
GOVERNOR

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DEPARTMENT OF STATE
DIVISION OF ELECTIONS

May 2, 2012

The Honorable Kenneth W. Detzner
Secretary of State
State of Florida
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Detzner:

Please be advised I have made the following appointment under the provisions of Section 20.43(2), Florida Statutes:

Dr. John H. Armstrong
688 Southeast 47th Loop
Ocala, Florida 34480

as the State Surgeon General of the Department of Health, succeeding Dr. Steve L. Harris, subject to confirmation by the Senate. This appointment is effective May 23, 2012, for a term ending at the pleasure of the Governor.

Sincerely,

Rick Scott
Governor

RS/kb

THE CAPITOL
TALLAHASSEE, FLORIDA 32399 • (850) 488-2272 • FAX (850) 922-4292

100774

QUESTIONNAIRE FOR GUBERNATORIAL APPOINTMENTS

The information from this questionnaire will be used by the Governor's office and, where applicable, The Florida Senate in considering action on your confirmation. The questionnaire MUST BE COMPLETED IN FULL. Answer "none" or "not applicable" where appropriate. **Please type or print in black ink.**

April 24, 2012
Date Completed

1. Name: Dr. Armstrong John Hulse
   MR./MRS./MS. LAST FIRST MIDDLE/MAIDEN

2. Business Address: 124 S. Franklin Street, Executive Offices Tampa
   STREET OFFICE # CITY
   FL 33602 813-224-7849
   POST OFFICE BOX STATE ZIP CODE AREA CODE/PHONE NUMBER

3. Residence Address: 688 SE 47th Loop Ocala Marion
   STREET CITY COUNTY
   FL 34480 352-368-2272
   POST OFFICE BOX STATE ZIP CODE AREA CODE/PHONE NUMBER

Specify the preferred mailing address: Business ○ Residence ◉ Fax # _____ (optional)

4. A. List all your places of residence for the last ten (10) years.

ADDRESS	CITY & STATE	FROM	TO
688 SE 47th Loop	Ocala, FL	8/2006	present
3400 Durango Street	Coral Gables, FL	7/2004	8/2006
115 E. Hermosa Drive	San Antonio, TX	7/2001	7/2004
B (below, continued)			
5070 Likini Street, #1609	Honolulu, HI	7/1989	6/1990
1539 Epukane Street	Honolulu, HI	7/1988	7/1989

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B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

ADDRESS	CITY & STATE	FROM	TO
2108 Sabrina Drive	Vienna, VA	7/1998	7/2001
6229 N. London Ave, Apt. G	Kansas City, KS	7/1997	6/1998
920 Neal Drive	Alexandria, VA	6/1993	6/1995
418 C Halawa View Loop	Honolulu, HI	7/1990	6/1993

5. Date of Birth: 5/10/1963 Place of Birth: Malta, MT
6. Social Security Number _____
7. Driver License Number: _____ Issuing State: FL

8. Have you ever used or been known by any other legal name? Yes ◯ No ◉ If "Yes" Explain

9. Are you a United States citizen? Yes ◉ No ◯ If "No" explain:

If you are a naturalized citizen, date of naturalization:

10. Since what year have you been a continuous resident of Florida? 1996

11. Are you a registered Florida voter? Yes ◉ No ◯ If "Yes" list:

A. County of registration: Marion B. Current party affiliation: Republican

12. Education

A. High School: West Springfield High School, Springfield, VA Year Graduated: 1980
(NAME AND LOCATION)

B. List all postsecondary educational institutions attended:

NAME & LOCATION	DATES ATTENDED	CERTIFICATES/DEGREES RECEIVED
Princeton University, Princeton, NJ	9/5/1980 to 6/6/1984	BA (Economics)
University of Virginia School of Medicine	8/24/1984 to 5/22/1988	MD
US Army Command and General Staff College	7/11/1997 to 6/6/1998	Graduate

13. Are you or have you ever been a member of the armed forces of the United States? Yes ■ No ☐ If "Yes" list:

A. Dates of service: 6/17/1988 to 11/22/2005

B. Branch or component: US Army

C. Date & type of discharge: 11/22/2005, Honorable

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of $150 or less was paid.) If "Yes" give details:

DATE	PLACE	NATURE	DISPOSITION
No			

15. Concerning your current employer and for all of your employment during the last ten years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

EMPLOYER'S NAME & ADDRESS	TYPE OF BUSINESS	OCCUPATION/JOB TITLE	PERIOD OF EMPLOYMENT
USF Health, Dept of Surgery, 2 Tampa General Circle, Tampa, FL 33606	Academic health care	Associate Professor of Surgery; Chief Medical Officer, CAMLS	12/10 to present
Independent Contractor, 688 SE 47th Loop, Ocala, FL 34480	Consulting	Consultant	11/10
University of Florida HSC, 1600 SW Archer Rd, Box 100108, Gainesville, FL 32610-0286	Academic health care	Assistant Professor of Surgery	4/06 to 10/10
US Army Medical Department, Medical Corps Branch, CDR, HRC, Attn TAPC-OPH-MC, 200 Stovall St, Alexandria, VA 22332-0417	Army medicine	Surgeon	7/93 to 11/05

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes ☐ No ☒
If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

POSITION	EMPLOYING AGENCY	PERIOD OF EMPLOYMENT

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.
For 20 years (12 in Florida), I have been a caring surgeon, acclaimed educator, and recognized leader in patient-centered advocacy through state and national organized medicine. I have managed a diversity of personnel, clinics, services, centers, and systems across health care delivery in military and civilian sectors, and served on Florida Department of Health Trauma System committees and Centers for Disease Control panels. My particular areas of expertise include public health preparedness, team performance, trauma system development, and health policy. Effective communication is a common thread across all of my experiences, to include media (print, radio, and television), audiovisual presentations, public speeches, and Congressional testimony.

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes ◉ No ○ If "Yes", list:
MD; US Army Command and General Staff College; University of Florida College of Medicine Master Educator in Medical Education; Certified, American Board of Surgery in Surgery and Surgical Critical Care; Fellow, American College of Surgeons; Fellow, American College of Chest Physicians

C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes ☒ No ☐
If "Yes", list:
American Association for the Surgery of Trauma/American College of Surgeons Health Policy Scholarship, 2011; Exemplary Teacher, University of Florida College of Medicine, 2011; Award of Excellence, Florida State Department of Health, 2009 and 2008; US Army Meritorious Service Medal, 4th Oak Leaf Cluster, 2005; US Navy Commendation Medal, 2005; US Army Surgeon General's Physician Recognition Award for Lieutenant Colonel, 2003

D. Identify all association memberships and association offices held by you that relate to this appointment:

Florida Medical Association (former Chair, Disaster Committee)

American Medical Association (former young physician trustee, Secretary, NDLS Executive Committee)

American College of Surgeons (Chair, AMA delegation; member, Health Policy & Advocacy Group; disaster consultant)

Association of Military Surgeons of the United States; American College of Physician Executives

American Association for the Surgery of Trauma

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government?
Yes ☐ No ☒ If "Yes", list:

19. A. Have you ever been elected or appointed to any public office in this state? Yes ☐ No ☒ If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

OFFICE TITLE	DATE OF ELECTION OR APPOINTMENT	TERM OF OFFICE	LEVEL OF GOVERNMENT

B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled:

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

MEETINGS ATTENDED	MEETINGS MISSED	REASON FOR ABSENCE

20. Has probable cause ever been found that you were in violation of the Code of Ethics for Public Officers and Employees, Part III, Chapter 112, F.S.? Yes ○ No ◉ If "Yes", give details:

DATE	NATURE OF VIOLATION	DISPOSITION

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes ☐ No ☒ If "Yes", list:

A. Title of office:

B. Date of suspension:

C. Reason for suspension:

D. Result: Reinstated ○ Removed ○ Resigned ○

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes ◯ No ◉
If "Yes", list:

A. Title of Office: _____

B. Term of Appointment: _____

C. Confirmation results: _____

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes ◯ No ◉ If "Yes", explain:

_____

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes ◉ No ◯
If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

LICENSE/CERTIFICATE TITLE & NUMBER	ORIGINAL ISSUE DATE	ISSUING AUTHORITY	DISCIPLINARY ACTION/DATE
ME 69442	10/12/1995	DoH, Div of Med Qual Assurance	N/A

25. A. Have you, or businesses of which you have been an owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes ◯ No ◉ If "Yes", explain:

NAME OF BUSINESS	YOUR RELATIONSHIP TO BUSINESS	BUSINESS' RELATIONSHIP TO AGENCY

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes ◯ No ◉ If "Yes", explain:

NAME OF BUSINESS	FAMILY MEMBER'S RELATIONSHIP TO YOU	FAMILY MEMBER'S RELATIONSHIP TO BUSINESS	BUSINESS' RELATIONSHIP TO AGENCY

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes ◉ No ◯

A. Did you receive any compensation other than reimbursement for expenses? Yes ◯ No ◉

B. Name of agency or entity you lobbied and the principal(s) you represented:

AGENCY LOBBIED	PRINCIPAL REPRESENTED
US Congress	American College of Surgeons

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

NAME	MAILING
Mary E. Maniscalco-Theberge, MD	
Richard B. Reiling, MD	
Cecil B. Wilson, MD	

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

NAME	MAILING ADDRESS	OFFICE(S) HELD & TERM	DATE(S) OF MEMBERSHIP
Florida Medical Association	1430 Piedmont Dr E, Tallahassee, FL 32308	Chair, Disaster Committee	2003 to present
American Medical Association	515 N. State St, Chicago, IL 60610	Young Physician Trustee, Secretary, 2002-6	1988 to present
American College of Surgeons	633 N. St. Clair St, Chicago, IL 60611	FL Governor (2010); Chair, AMA Delegation, & Chair, ACSPA-Surgeons PAC (2009) to present	2000 to present
American College of Physician Executives	400 N. Ashley Drive, Suite 400, Tampa, FL 33602		1995 to present
American College of Chest Physicians	3300 Dundee Rd, Northbrook, IL 60062-2348		2000 to present
Association of Military Surgeons of the United States	9320 Old Georgetown Road, Bethesda, MD 20184		1993 to present
American Association for the Surgery of Trauma	633 N. St. Clair St, Chicago, IL 60611		2010 to present

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes ☐ No ■ If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes ◉ No ◯

100787

CERTIFICATION

STATE OF FLORIDA, COUNTY OF LEON

Before me, the undersigned Notary Public of Florida, personally appeared JOHN HULSE ARMSTRONG, MD, who, after being duty sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

Signature of Applicant-Affiant

Sworn to and subscribed before me this 13 day of June, 2012.

Signature of Notary Public-State of Florida

Karen D. Ashburn
(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: 9/6/2015

Personally Known ☑ **OR** Produced Identification ☐

Type of Identification Produced _____

KAREN D. ASHBURN
Notary Public - State of Florida
My Comm. Expires Sep 6, 2015
Commission # EE 94938
Bonded Through National Notary Assn.

(seal)

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DEPARTMENT OF STATE
2012 JUN 14 AM 11:03
DIVISION OF ELECTIONS
TALLAHASSEE, FL

MEMORANDUM

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

N/A ☐ Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.)_____

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

A black and white copy of this document is not official

1030

STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections

I, Ken Detzner, Secretary of State,
do hereby certify that

John Hulse Armstrong

is duly appointed

State Surgeon General,
Department of Health

for a term beginning on the
Twenty-Third day of May, A.D., 2012,
to serve at the pleasure of the Governor
and is subject to be confirmed by the Senate
during the next regular session of the Legislature.

Given under my hand and the Great Seal of the State of Florida, at Tallahassee, the Capital, this the Fourteenth day of June, A.D., 2012.

Ken Detzner

Secretary of State

DSDE 99 (3/03)

If photocopied or chemically altered, the word "VOID" will appear.
"State of Florida" appears in small letters across the face of this 8½ x 11" document.
The original document has a reflective line mark in paper. Hold at an angle to view when checking.

THE FLORIDA SENATE

COMMITTEE WITNESS OATH

CHAIR:

Please raise your right hand and be sworn in as a witness.

Do you swear or affirm that the evidence you are about to give will be the truth, the whole truth, and nothing but the truth?

WITNESS'S NAME: John H. Armstrong, M.D.

ANSWER: I do

Pursuant to §90.605(1), *Florida Statutes*: "The witness's answer shall be noted in the record."

COMMITTEE NAME: Health Policy

DATE: April 16, 2013

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Health Policy

BILL: SPB 7156

INTRODUCER: For Consideration by Health Policy Committee

SUBJECT: County Contributions to Medicaid

DATE: April 17, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Lloyd/Cote	Stovall/ Diez-Arguelles	HP	**Submitted as Committee Bill**
2.				
3.				
4.				
5.				
6.				

I. Summary:

SPB 7156 revises the current process for determining and collecting counties' contributions to the Medicaid program. For state fiscal year 2013-2014, the total amount of the counties' contribution is set at $269.6 million. For each year thereafter, the total annual amount of the counties' contribution is adjusted by the percentage change in state Medicaid expenditures. Each county is responsible for paying a portion of the annual counties' contribution based on the county's proportion of Medicaid enrollees as of March 1 of each year.

The Revenue Estimating Conference has not examined this bill. Based on current estimates of state Medicaid expenditures and collections of counties' contributions to Medicaid, staff anticipates the following annual changes to General Revenue Fund receipts: fiscal year 2013-2014: no change; fiscal year 2014-2015: $2.4 million reduction; fiscal year 2015-2016: $8.2 million reduction; fiscal year 2016-2017: $12.4 million reduction; fiscal year 2017-2018: $16.1 million reduction.

This bill substantially amends section 409.915 of the Florida Statutes.

II. Present Situation:

County Contributions to Medicaid

Chapter 72-225, Laws of Florida, created s. 409.267, F.S., which required county participation in the cost of certain services provided to county residents through Florida's Medicaid program. In 1991, s. 409.267, F.S., was repealed and replaced with s. 409.915, F.S., which provides that the

state shall charge counties for certain items of care and service. Counties are required to reimburse the state for:

- 35 percent of the cost of inpatient hospitalization in excess of 10 days, not to exceed 45 days, with the exception of pregnant women and children whose income is in excess of the federal poverty level and who do not participate in the Medicaid medically needy program, and for adult lung transplant services; and
- 35 percent of the cost of nursing home or intermediate facilities in excess of $170 per month, limited to $55 per resident per month, with the exception of skilled nursing care for children under age 21.

The Agency for Health Care Administration (AHCA) provides each county with a monthly bill based on payments made on behalf of the county's residents. The amount collected from the counties is deposited into the General Revenue Fund.

For the period from state fiscal year 1994-1995 through fiscal year 2006-2007, county contributions to Medicaid collections were approximately 93 percent of total billings in any fiscal year. For fiscal year 2007-2008 through fiscal year 2011-12, county contributions to Medicaid collections dropped to less than 90 percent of total billings, with only 64.7 percent of billings billed in fiscal year 2010-2011 being paid in that year. The decline in collections was caused mainly by the inability of the AHCA and individual counties to reach agreement on whether certain Medicaid recipients were residents of the county. The decline in the amount of billings collected resulted in a large backlog of past due billings.

In 2012, the Legislature reacted to this situation by enacting ch. 2012-33, L.O.F.

Backlog Payments

Chapter 2012-33, L.O.F., amended s. 409.915, F.S., requiring that the amount of each county's billings that remained unpaid as of April 30, 2012, be deducted from the county's monthly revenue sharing distribution over a 5-year period. The amounts by which the distributions are reduced are being transferred to the General Revenue Fund.

By August 2, 2012, the AHCA certified to each county the amount of billings that remained unpaid from November 1, 2001 through April 30, 2012. A county could challenge the amount certified by filing a petition with the AHCA prior to September 1, 2012.[1] This procedure was the exclusive method to challenge the amount certified. The AHCA permitted the counties to make a full or partial payment in the form of a check or wire transfer by September 13, 2012, instead of applying reductions to the revenue sharing distributions. On September 15, 2012, the AHCA certified the amount of past billings for each county to the Department of Revenue (DOR). For counties that filed a petition, the AHCA certified 100 percent of the past due billings. For counties that did not file a petition, The AHCA certified 85 percent of the past due billings. Starting with the October 2012 distribution, DOR deducted the amount of past due billings certified by the AHCA from each county's monthly revenue sharing distribution. The deductions will continue for 5 years or until each county has paid the total amount of past due billings.

[1] A county could file a petition under the applicable provisions of Chapter 120, F.S.

Prospective Billings

Chapter 2012-33, L.O.F., also provided a new process for collecting counties' future contributions to Medicaid. Beginning May 1, 2012, and each month thereafter, the AHCA had to certify to the DOR the amount of monthly statements rendered to each county based on each county's Medicaid billings. The law provided for the DOR to reduce each county's monthly distribution from the Local Half-Cent Sales Tax Trust Fund by the amount certified by AHCA. The amounts by which the distributions were reduced were to be transferred to the General Revenue Fund.

The law also directed the AHCA to develop a process allowing counties to submit written requests for refunds. If approved, AHCA would certify to DOR the amount of the refund and DOR would issue the refund from the General Revenue Fund.

Since half of the county revenue sharing, and all of the half-cent, distributions, may be used by counties to pay debt service on bonds, the law provided an assurance to bondholders for bonds issued before July 1, 2012.

Administrative Billing and Refund Process

In order to address the counties' concerns regarding the new law, the AHCA developed a process for monthly billings which allows counties to submit both advanced and back end refund requests.[2] Counties must include the reason and provide documentation for the request. Advanced refund requests must be received by AHCA by the end of each billing month. The agency withholds certifying the amount of the advanced refund request to DOR in order to provide time to research and resolve the requests. Advanced refund requests are researched within 60 days by AHCA. Denied refund requests are certified to DOR on a subsequent bill. If a refund request is granted and the bill should have been submitted to another county, the amount will be transferred and certified by AHCA to the appropriate county on a subsequent billing. The ability for a county to make an advanced refund request will expire on April 30, 2013.

In addition to an advanced refund request, a county may submit a back end refund request within 60 days from the date of certification. Counties requesting a back end request have already paid their billing and then subsequently filed their dispute after a monthly payment. The AHCA notifies the counties whether the refund request is granted within 90 days after certification. If a back end refund request is granted, the refund will be a credit applied to a future bill and may be transferred to the appropriate county on a subsequent bill.

The AHCA also permits each county to submit payment in the form of a check or wire transfer to the agency. The payment must be received by the agency by the 5th day of the month. If the payment is not received by the agency by the 5th day of the month, the agency certifies the amount of the county billing to the DOR for withholding from monthly Local Half-Cent Sales Tax distributions.

[2] *See* Rule 59G-1.025, F.A.C., Medicaid County Billing.

County Revenue Sharing Program[3]

The Florida Revenue Sharing Act of 1972 was a major attempt by the Legislature to ensure a minimum level of revenue parity across units of local government.[4] Provisions in the enacting legislation created the Revenue Sharing Trust Fund for Counties. Currently, the trust fund receives 2.9 percent of net cigarette tax collections and 2.044 percent of sales and use tax collections.[5] An allocation formula serves as the basis for the distribution of these revenues to each county that meets the strict eligibility requirements. The county revenue sharing program is administered by the DOR and monthly distributions are made to the eligible counties.

There are three categories of shared revenues received by the counties, including the guaranteed entitlement, the second guaranteed entitlement, and a third category which includes an adjustment for growth in revenues. The guaranteed entitlement is equal to the aggregate amount received from the state in fiscal year 1971-1972 under then-existing statutory provisions. The second guaranteed entitlement is equal to the aggregate amount received from the state in fiscal year 1981-1982 under then-existing statutory provisions minus the guaranteed entitlement. The revenue is adjusted so that all counties receive at least their minimum entitlement, which means the amount of revenue necessary for a county to meet its obligations as a result of pledges, assignments, or trusts entered into which obligated Trust Fund monies. Finally, after making these adjustments, any remaining Trust Fund monies shall be distributed on the basis of additional revenue of each qualified county in proportion to the total additional revenues for qualified counties.

There are no restrictions on the use of these revenues other than a statutory limitation regarding funds that can be used as a pledge for indebtedness. Chapter 218.25, F.S., restricts the amount of funds that can be pledged for bonded indebtedness. Counties are allowed to pledge the guaranteed entitlement proceeds.[6] Additionally, the second guaranteed entitlement may also be assigned, pledged, or set aside as a trust for the payment of principal or interest on bonds, tax anticipation certificates, or any other form of indebtedness.[7] However, a county may only assign, pledge, or set aside as a trust for the payment of principal or interest on bonds, tax anticipation certificates, or any other form of indebtedness, an amount up to 50 percent of the funds received in the prior year.[8]

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[3] A full description including tables providing estimates of distributions to counties from the county revenue sharing program can be found in the 2012 Local Government Financial Handbook. See Florida Legislature, Office of Economic and Demographic Research, 2012 LOCAL GOVERNMENT FINANCIAL INFORMATION HANDBOOK, available online at <http://edr.state.fl.us/Content/local-government/reports/lgfih12.pdf>, (Last visited April 14, 2013).
[4] Chapter 72-360, L.O.F.
[5] Sections 212.20(6)(d)4. and 210.20(2)(a), F.S.
[6] Section 218.25(1), F.S.
[7] Section 218.25(2), F.S.
[8] Section 218.25(4), F.S.

Local Government Half-Cent Sales Tax Program[9]

Authorized in 1982, the local government half-cent sales tax program generates the largest amount of revenue for local governments among the state-shared revenue sources currently authorized by the Legislature.[10] The program distributes a portion of state sales tax revenue via three separate distributions to eligible county or municipal governments. Additionally, the program distributes a portion of communications services tax revenue to eligible local governments. Allocation formulas serve as the basis for these separate distributions. The program's primary purpose is to provide relief from ad valorem and utility taxes in addition to providing counties and municipalities with revenues for local programs.

The program includes three distributions of state sales tax revenues collected pursuant to ch. 212, F.S. The ordinary distribution to eligible county and municipal governments is possible due to the transfer of 8.814 percent of net sales tax proceeds to the Local Government Half-cent Sales Tax Clearing Trust Fund.[11] The emergency and supplemental distributions are possible due to the transfer of 0.095 percent of net sales tax proceeds to the Trust Fund.[12] The emergency and supplemental distributions are available to select counties that meet certain fiscal-related eligibility requirements or have an inmate population of greater than seven percent of the total county population, respectively.

As of July 1, 2006, the program includes a separate distribution from the trust fund to select counties that meet statutory criteria to qualify as a fiscally constrained county.[13] A fiscally constrained county is one that is entirely within a rural area of critical economic concern as designated by the Governor pursuant to s. 288.0656, F.S., or for which the value of one mill of property tax levy will raise no more than $5 million in revenue based on the taxable value certified pursuant to s. 1011.62(4)(a)1.a., F.S. This separate distribution is in addition to the qualifying county's ordinary distribution and any emergency or supplemental distribution.

The half-cent sales tax distribution formula is determined annually based on population figures that are established as of April 1 for the state fiscal year beginning July 1. The DOR makes monthly distributions from the Local Government Half-cent Sales Tax Clearing Trust Fund to participating counties.

A county is also authorized to pledge the proceeds for payment of principal and interest on any capital project.[14] For any eligible county receiving a fiscally constrained distribution, the revenues may be used for any public purpose, except to pay debt service on bonds, notes, certificates of participation, or any other forms of indebtedness.[15]

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[9] A full description including tables providing estimates of distributions to local governments from the half-cent sales tax program can be found in the 2012 Local Government Financial Handbook. See Florida Legislature, Office of Economic and Demographic Research, 2012 LOCAL GOVERNMENT FINANCIAL INFORMATION HANDBOOK, available online at http://edr.state.fl.us/Content/local-government/reports/lgfih12.pdf. (last visited April 15, 2013).
[10] Chapter 82-154, L.O.F.
[11] Section 212.20(6)(d)2, F.S.
[12] Section 212.20(6)(d)3, F.S.
[13] Section 218.67, F.S.
[14] Section 218.64(2)., F.S.
[15] Section 218.67(5), F.S.

Changes to Medicaid Program

The AHCA is in the process of implementing a new payment method for some Medicaid providers which utilizes diagnosis related groups (DRGs) instead of the current per diem reimbursement method. Also, the use of managed care organizations in the Medicaid program is expected to expand under the Statewide Medicaid Managed Care Program. Both of these changes will affect the current practices used to bill and collect counties' contributions to Medicaid.

III. Effect of Proposed Changes:

The bill amends s. 409.915, F.S., to revise the current process for county Medicaid billings. Instead of the current practice based on expenditures incurred on behalf of a county's residents, the bill provides for an annual contribution for Medicaid. The bill establishes a total contribution of $269.6 million for state fiscal year 2013-2014. For each year thereafter, the total annual amount of the counties' contribution is adjusted by the percentage change in state Medicaid expenditures.

Each county's annual contribution is determined by multiplying the total annual contribution for all counties by the county's proportion of Medicaid enrollees as of March 1 of each year. The AHCA is responsible for calculating the amount of each county's annual contribution and providing the information to the DOR by May 15 of each year.

By June 1 of each year, DOR must notify each county of its annual contribution. Counties must pay, via check or electronic transfer, by the 5th of each month. If a county fails to remit payment by the 5th of the month, DOR is directed to reduce the county's monthly distribution from the Local Government Half-Cent Sales Tax Trust Fund by the amount of the monthly installment. The payments and the amounts by which the distributions are reduced are transferred to the General Revenue Fund.

The amount of each county's contribution for fiscal year 2013-2014 must be determined and provided by the AHCA to the DOR by June 15, 2013. The DOR will notify each county of its annual contribution by June 20, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not examined this bill. Based on current estimates of state Medicaid expenditures and collections of counties' contributions to Medicaid, staff anticipates the following annual changes to General Revenue Fund receipts: fiscal year 2013-2014: no change; fiscal year 2014-2015: $2.4 million reduction; fiscal year 2015-2016: $8.2 million reduction; fiscal year 2016-2017: $12.4 million reduction; fiscal year 2017-2018: $16.1 million reduction.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Administrative costs incurred by AHCA and individual counties under the current law should be significantly lower under the provisions of SPB 7156.

Each county will pay a portion of the total annual contribution for all counties. For fiscal year 2013-2014, the total annual contribution for all counties is $269.6 million. On the table in the following pages, the estimated contribution for all counties is provided.

Column 1 represents each county's total Medicaid enrollment as March 1, 2013.

Column 2 shows the county's percentage share of Medicaid enrollment compared to the statewide total Medicaid enrollment as of March 1, 2013.

Column 3 represents the county's estimated annual Medicaid county contribution for fiscal year 2013-2014, under the formula in SPB 7156.

Column 4 shows the county's percentage share of actual statewide Medicaid costs based on 6 months of actual billing data from the AHCA.

Column 5 represents the county's estimated contribution rates for the state fiscal year 2013-2014, under the current method based on 6 months of actual billing data from the AHCA and the amount to be collected, $296.6 million.

Column 6 represents the difference between the allocations under the new methodology in SPB 7156 as shown under Column 3 and the current methodology shown under Column 5.

Column 7 shows the percentage difference between the allocations under the new methodology in SPB 7156 as shown under Column 3 and the current methodology shown under Column 5.

Fiscal Year 2013-2014 Estimated County Contributions

Column#	1	2	3	4	5	6	7
County	# of Medicaid enrollees as of March 1, 2013	% of Medicaid Enrollees as of March 1, 2013	**SPB 7156** Estimated Annual Contribution	% share based on 6 months of actual AHCA billing data	$ based on 6 months of actual AHCA billing data @ $269.6 m	Difference (Senate – 6 months data)	% Change
ALACHUA	34,747	1.05%	$2,817,765	1.28%	$3,445,488	($627,723)	-18.2%
BAKER	5,380	0.16%	$436,284	0.12%	$312,736	$123,548	39.5%
BAY	32,774	0.99%	$2,657,767	0.61%	$1,636,472	$1,021,295	62.4%
BRADFORD	5,752	0.17%	$466,451	0.18%	$482,584	($16,133)	-3.3%
BREVARD	76,361	2.30%	$6,192,400	2.47%	$6,661,816	($469,416)	-7.0%
BROWARD	273,454	8.23%	$22,175,412	9.23%	$24,873,296	($2,697,884)	-10.8%
CALHOUN	3,071	0.09%	$249,039	0.08%	$226,464	$22,575	10.0%
CHARLOTTE	20,225	0.61%	$1,640,121	0.58%	$1,558,288	$81,833	5.3%
CITRUS	22,714	0.68%	$1,841,964	0.66%	$1,787,448	$54,516	3.0%
CLAY	24,507	0.74%	$1,987,365	0.64%	$1,711,960	$275,405	16.1%
COLLIER	42,313	1.27%	$3,431,320	1.16%	$3,127,360	$303,960	9.7%
COLUMBIA	15,157	0.46%	$1,229,138	0.56%	$1,501,672	($272,534)	-18.1%
DADE	611,997	18.41%	$49,629,135	18.85%	$50,819,600	($1,190,465)	-2.3%
DESOTO	7,853	0.24%	$636,829	0.17%	$450,232	$186,597	41.4%
DIXIE	3,949	0.12%	$320,239	0.10%	$264,208	$56,031	21.2%
DUVAL	170,065	5.12%	$13,791,209	5.34%	$14,385,856	($594,647)	-4.1%
ESCAMBIA	59,704	1.80%	$4,841,622	1.61%	$4,351,344	$490,278	11.3%
FLAGLER	14,154	0.43%	$1,147,801	0.40%	$1,070,312	$77,489	7.2%
FRANKLIN	2,250	0.07%	$182,461	0.09%	$245,336	($62,875)	-25.6%
GADSDEN	12,097	0.36%	$980,991	0.24%	$644,344	$336,647	52.2%
GILCHRIST	3,253	0.10%	$263,798	0.08%	$210,288	$53,510	25.4%
GLADES	1,183	0.04%	$95,934	0.06%	$148,280	($52,346)	-35.3%
GULF	2,580	0.08%	$209,222	0.08%	$204,896	$4,326	2.1%
HAMILTON	3,482	0.10%	$282,368	0.08%	$202,200	$80,168	39.6%
HARDEE	7,430	0.22%	$602,527	0.11%	$296,560	$305,967	103.2%
HENDRY	11,190	0.34%	$907,439	0.16%	$439,448	$467,991	106.5%
HERNANDO	31,358	0.94%	$2,542,938	0.86%	$2,323,952	$218,986	9.4%
HIGHLANDS	18,854	0.57%	$1,528,942	0.47%	$1,261,728	$267,214	21.2%
HILLSBOROUGH	243,293	7.32%	$19,729,543	6.95%	$18,742,592	$986,951	5.3%
HOLMES	5,246	0.16%	$425,418	0.10%	$272,296	$153,122	56.2%
INDIAN RIVER	19,403	0.58%	$1,573,462	0.40%	$1,070,312	$503,150	47.0%
JACKSON	10,618	0.32%	$861,053	0.22%	$587,728	$273,325	46.5%
JEFFERSON	2,682	0.08%	$217,493	0.08%	$223,768	($6,275)	-2.8%
LAFAYETTE	1,207	0.04%	$97,880	0.01%	$37,744	$60,136	159.3%
LAKE	48,588	1.46%	$3,940,183	1.53%	$4,111,400	($171,217)	-4.2%
LEE	99,617	3.00%	$8,078,317	2.51%	$6,769,656	$1,308,661	19.3%
LEON	35,277	1.06%	$2,860,744	0.93%	$2,504,584	$356,160	14.2%
LEVY	8,668	0.26%	$702,921	0.26%	$690,176	$12,745	1.8%
LIBERTY	1,593	0.05%	$129,182	0.05%	$134,800	($5,618)	-4.2%
MADISON	4,804	0.14%	$389,574	0.09%	$231,856	$157,718	68.0%

Column#	1	2	3	4	5	6	7
County	# of Medicaid enrollees as of March 1, 2013	% of Medicaid Enrollees as of March 1, 2013	**SPB 7156** Estimated Annual Contribution	% share based on 6 months of actual AHCA billing data	$ based on 6 months of actual AHCA billing data @ $269.6 m	Difference (Senate – 6 months data)	% Change
MANATEE	48,635	1.46%	$3,943,995	1.62%	$4,372,912	($428,917)	-9.8%
MARION	64,667	1.95%	$5,244,090	1.63%	$4,391,784	$852,306	19.4%
MARTIN	14,948	0.45%	$1,212,189	0.35%	$948,992	$263,197	27.7%
MONROE	7,432	0.22%	$602,689	0.26%	$706,352	($103,663)	-14.7%
NASSAU	9,841	0.30%	$798,044	0.24%	$647,040	$151,004	23.3%
OKALOOSA	24,900	0.75%	$2,019,235	0.57%	$1,525,936	$493,299	32.3%
OKEECHOBEE	9,254	0.28%	$750,442	0.24%	$633,560	$116,882	18.4%
ORANGE	217,819	6.55%	$17,663,761	6.68%	$18,009,280	($345,519)	-1.9%
OSCEOLA	74,534	2.24%	$6,044,242	1.61%	$4,348,648	$1,695,594	39.0%
PALM BEACH	187,225	5.63%	$15,182,778	5.90%	$15,901,008	($718,230)	-4.5%
PASCO	75,926	2.28%	$6,157,124	2.39%	$6,446,136	($289,012)	-4.5%
PINELLAS	135,777	4.08%	$11,010,667	6.64%	$17,912,224	($6,901,557)	-38.5%
POLK	124,713	3.75%	$10,113,445	3.64%	$9,818,832	$294,613	3.0%
PUTNAM	20,473	0.62%	$1,660,232	0.42%	$1,124,232	$536,000	47.7%
SANTA ROSA	19,388	0.58%	$1,572,246	0.47%	$1,256,875	$315,371	25.1%
SARASOTA	43,652	1.31%	$3,539,905	1.23%	$3,316,080	$223,825	6.7%
SEMINOLE	49,023	1.47%	$3,975,459	1.74%	$4,688,344	($712,885)	-15.2%
ST. JOHNS	16,802	0.51%	$1,362,537	0.46%	$1,237,464	$125,073	10.1%
ST. LUCIE	50,051	1.51%	$4,058,824	1.15%	$3,111,184	$947,640	30.5%
SUMTER	9,541	0.29%	$773,716	0.22%	$587,728	$185,988	31.6%
SUWANNEE	9,995	0.30%	$810,532	0.25%	$679,392	$131,140	19.3%
TAYLOR	4,755	0.14%	$385,601	0.10%	$277,688	$107,913	38.9%
UNION	2,678	0.08%	$217,169	0.08%	$202,200	$14,969	7.4%
VOLUSIA	85,945	2.59%	$6,969,603	2.30%	$6,195,408	$774,195	12.5%
WAKULLA	4,468	0.13%	$362,327	0.10%	$277,688	$84,639	30.5%
WALTON	7,876	0.24%	$638,694	0.23%	$617,384	$21,310	3.5%
WASHINGTON	5,379	0.16%	$436,203	0.11%	$307,344	$128,859	41.9%
TOTAL	**3,324,547**	**100.0%**	**$269,600,000**	**99.98%**	**$269,551,472**	**$48,528**	**0.0%**

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

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

FOR CONSIDERATION By the Committee on Health Policy

588-04122A-13 20137156__

A bill to be entitled

An act relating to county Medicaid contributions; amending s. 409.915, F.S.; specifying the initial contribution and revising the method for calculating county contributions; providing timetables for calculating contributions and for payment of contributions; deleting provisions specifying the care and services that counties must participate in, obsolete bond provisions, and a process for refund requests; specifying the method for calculating each county's contribution for the 2013-2014 fiscal year; providing an effective date.

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

Section 1. Section 409.915, Florida Statutes, is amended to read:

409.915 County contributions to Medicaid.—Although the state is responsible for the full portion of the state share of the matching funds required for the Medicaid program, ~~in order to acquire a certain portion of these funds,~~ the state shall charge the counties <u>an annual contribution in order to acquire a certain portion of these funds</u> ~~for certain items of care and service as provided in this section~~.

<u>(1) As used in this section, the term "state Medicaid expenditures," means those expenditures used as matching funds for the federal Medicaid program.</u>

<u>(2)(a) For the 2013-2014 state fiscal year, the total amount of the counties' contribution is $269.6 million. For each</u>

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30 fiscal year thereafter, the annual amount shall be adjusted by
31 the percentage change in the state Medicaid expenditures as
32 determined by the Social Services Estimating Conference.
33 (b) By March 15 of each year, the Social Services
34 Estimating Conference shall determine the percentage change in
35 state Medicaid expenditures by comparing expenditures for the 2
36 most recent completed state fiscal years.
37 (3) The amount of each county's annual contribution shall
38 be equal to the product of the amount determined under
39 subsection (2) multiplied by a fraction, the numerator of which
40 is the number of the county's Medicaid enrollees as of March 1
41 of each year, and the denominator of which is the number of all
42 counties' Medicaid enrollees as of March 1 of each year. The
43 agency shall calculate this amount for each county and provide
44 the information to the Department of Revenue by May 15 of each
45 year.
46 (4) By June 1 of each year, the Department of Revenue shall
47 notify each county of its annual contribution. Each county shall
48 pay its contribution, by check or electronic transfer, in equal
49 monthly installments to the Department of Revenue by the 5th day
50 of each month. If a county fails to remit the payment by the 5th
51 day of the month, the Department of Revenue shall reduce each
52 county's monthly distribution pursuant to s. 218.61 by the
53 amount of the monthly installment. The payments and the amounts
54 by which the distributions are reduced shall be transferred to
55 the General Revenue Fund.
56 ~~(1) Each county shall participate in the following items of~~
57 ~~care and service:~~
58 ~~(a) For both health maintenance members and fee-for-service~~

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59 ~~beneficiaries, payments for inpatient hospitalization in excess~~
60 ~~of 10 days, but not in excess of 45 days, with the exception of~~
61 ~~pregnant women and children whose income is in excess of the~~
62 ~~federal poverty level and who do not participate in the Medicaid~~
63 ~~medically needy program, and for adult lung transplant services.~~
64 ~~(b) For both health maintenance members and fee-for-service~~
65 ~~beneficiaries, payments for nursing home or intermediate~~
66 ~~facilities care in excess of $170 per month, with the exception~~
67 ~~of skilled nursing care for children under age 21.~~
68 ~~(2) A county's participation must be 35 percent of the~~
69 ~~total cost, or the applicable discounted cost paid by the state~~
70 ~~for Medicaid recipients enrolled in health maintenance~~
71 ~~organizations or prepaid health plans, of providing the items~~
72 ~~listed in subsection (1), except that the payments for items~~
73 ~~listed in paragraph (1)(b) may not exceed $55 per month per~~
74 ~~person.~~
75 ~~(3) Each county shall set aside sufficient funds to pay for~~
76 ~~items of care and service provided to the county's eligible~~
77 ~~recipients for which county contributions are required,~~
78 ~~regardless of where in the state the care or service is~~
79 ~~rendered.~~
80 ~~(4) Each county shall contribute its pro rata share of the~~
81 ~~total county participation based upon statements rendered by the~~
82 ~~agency. The agency shall render such statements monthly based on~~
83 ~~each county's eligible recipients. For purposes of this section,~~
84 ~~each county's eligible recipients shall be determined by the~~
85 ~~recipient's address information contained in the federally~~
86 ~~approved Medicaid eligibility system within the Department of~~
87 ~~Children and Family Services. A county may use the process~~

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88 ~~developed under subsection (10) to request a refund if it~~
89 ~~determines that the statement rendered by the agency contains~~
90 ~~errors.~~
91 (5) In any county in which a special taxing district or
92 authority is located which benefits ~~will benefit~~ from the
93 Medicaid program ~~medical assistance programs covered by this~~
94 ~~section~~, the board of county commissioners may divide the
95 county's financial responsibility for this purpose
96 proportionately, and each such district or authority must
97 furnish its share to the board of county commissioners in time
98 for the board to comply with subsection (4) ~~(3)~~. Any appeal of
99 the proration made by the board of county commissioners must be
100 made to the Department of Financial Services, which shall ~~then~~
101 set the proportionate share for ~~of~~ each party.
102 ~~(6) Counties are exempt from contributing toward the cost~~
103 ~~of new exemptions on inpatient ceilings for statutory teaching~~
104 ~~hospitals, specialty hospitals, and community hospital education~~
105 ~~program hospitals that came into effect July 1, 2000, and for~~
106 ~~special Medicaid payments that came into effect on or after July~~
107 ~~1, 2000.~~
108 (6)~~(7)~~(a) By August 1, 2012, the agency shall certify to
109 each county the amount of such county's billings from November
110 1, 2001, through April 30, 2012, which remain unpaid. A county
111 may contest the amount certified by filing a petition under the
112 applicable provisions of chapter 120 on or before September 1,
113 2012. This procedure is the exclusive method to challenge the
114 amount certified. In order to successfully challenge the amount
115 certified, a county must show, by a preponderance of the
116 evidence, that a recipient was not an eligible recipient of that

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117 county or that the amount certified was otherwise in error.
118 (b) By September 15, 2012, the agency shall certify to the
119 Department of Revenue:
120 1. For each county that files a petition on or before
121 September 1, 2012, the amount certified under paragraph (a); and
122 2. For each county that does not file a petition on or
123 before September 1, 2012, an amount equal to 85 percent of the
124 amount certified under paragraph (a).
125 (c) The filing of a petition under paragraph (a) does ~~shall~~
126 not stay or stop the Department of Revenue from reducing
127 distributions in accordance with paragraph (b) and subsection
128 (7) ~~(8)~~. If a county that files a petition under paragraph (a)
129 is able to demonstrate that the amount certified should be
130 reduced, the agency shall notify the Department of Revenue of
131 the amount of the reduction. The Department of Revenue shall
132 adjust all future monthly distribution reductions under
133 subsection (7) ~~(8)~~ in a manner that results in the remaining
134 total distribution reduction being applied in equal monthly
135 amounts.
136 (7) ~~(8)~~ (a) Beginning with the October 2012 distribution, the
137 Department of Revenue shall reduce each county's distributions
138 pursuant to s. 218.26 by one thirty-sixth of the amount
139 certified by the agency under subsection (6) ~~(7)~~ for that
140 county, minus any amount required under paragraph (b). Beginning
141 with the October 2013 distribution, the Department of Revenue
142 shall reduce each county's distributions pursuant to s. 218.26
143 by one forty-eighth of two-thirds of the amount certified by the
144 agency under subsection (6) ~~(7)~~ for that county, minus any
145 amount required under paragraph (b). However, the amount of the

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146 reduction may not exceed 50 percent of each county's
147 distribution. If, after 60 months, the reductions for any county
148 do not equal the total amount initially certified by the agency,
149 the Department of Revenue shall continue to reduce such county's
150 distribution by up to 50 percent until the total amount
151 certified is reached. The amounts by which the distributions are
152 reduced shall be transferred to the General Revenue Fund.
153 (b) As an assurance to holders of bonds issued before the
154 effective date of this act to which distributions made pursuant
155 to s. 218.26 are pledged, or bonds issued to refund such bonds
156 which mature no later than the bonds they refunded and which
157 result in a reduction of debt service payable in each fiscal
158 year, the amount available for distribution to a county shall
159 remain as provided by law and continue to be subject to any lien
160 or claim on behalf of the bondholders. The Department of Revenue
161 must ensure, based on information provided by an affected
162 county, that any reduction in amounts distributed pursuant to
163 paragraph (a) does not reduce the amount of distribution to a
164 county below the amount necessary for the timely payment of
165 principal and interest when due on the bonds and the amount
166 necessary to comply with any covenant under the bond resolution
167 or other documents relating to the issuance of the bonds. If a
168 reduction to a county's monthly distribution must be decreased
169 in order to comply with this paragraph, the Department of
170 Revenue must notify the agency of the amount of the decrease and
171 the agency must send a bill for payment of such amount to the
172 affected county.
173 ~~(9)(a) Beginning May 1, 2012, and each month thereafter,~~
174 ~~the agency shall certify to the Department of Revenue by the 7th~~

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175 ~~day of each month the amount of the monthly statement rendered~~
176 ~~to each county pursuant to subsection (4). Beginning with the~~
177 ~~May 2012 distribution, the Department of Revenue shall reduce~~
178 ~~each county's monthly distribution pursuant to s. 218.61 by the~~
179 ~~amount certified by the agency minus any amount required under~~
180 ~~paragraph (b). The amounts by which the distributions are~~
181 ~~reduced shall be transferred to the General Revenue Fund.~~
182 ~~(b) As an assurance to holders of bonds issued before the~~
183 ~~effective date of this act to which distributions made pursuant~~
184 ~~to s. 218.61 are pledged, or bonds issued to refund such bonds~~
185 ~~which mature no later than the bonds they refunded and which~~
186 ~~result in a reduction of debt service payable in each fiscal~~
187 ~~year, the amount available for distribution to a county shall~~
188 ~~remain as provided by law and continue to be subject to any lien~~
189 ~~or claim on behalf of the bondholders. The Department of Revenue~~
190 ~~must ensure, based on information provided by an affected~~
191 ~~county, that any reduction in amounts distributed pursuant to~~
192 ~~paragraph (a) does not reduce the amount of distribution to a~~
193 ~~county below the amount necessary for the timely payment of~~
194 ~~principal and interest when due on the bonds and the amount~~
195 ~~necessary to comply with any covenant under the bond resolution~~
196 ~~or other documents relating to the issuance of the bonds. If a~~
197 ~~reduction to a county's monthly distribution must be decreased~~
198 ~~in order to comply with this paragraph, the Department of~~
199 ~~Revenue must notify the agency of the amount of the decrease and~~
200 ~~the agency must send a bill for payment of such amount to the~~
201 ~~affected county.~~
202 ~~(10) The agency, in consultation with the Department of~~
203 ~~Revenue and the Florida Association of Counties, shall develop a~~

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204 ~~process for refund requests which:~~
205 ~~(a) Allows counties to submit to the agency written~~
206 ~~requests for refunds of any amounts by which the distributions~~
207 ~~were reduced as provided in subsection (9) and which set forth~~
208 ~~the reasons for the refund requests.~~
209 ~~(b) Requires the agency to make a determination as to~~
210 ~~whether a refund request is appropriate and should be approved,~~
211 ~~in which case the agency shall certify the amount of the refund~~
212 ~~to the department.~~
213 ~~(c) Requires the department to issue the refund for the~~
214 ~~certified amount to the county from the General Revenue Fund.~~
215 ~~The Department of Revenue may issue the refund in the form of a~~
216 ~~credit against reductions to be applied to subsequent monthly~~
217 ~~distributions.~~
218 (8) ~~(11)~~ Beginning in the 2013-2014 fiscal year and each
219 year thereafter through the 2020-2021 fiscal year, the Chief
220 Financial Officer shall transfer from the General Revenue Fund
221 to the Lawton Chiles Endowment Fund an amount equal to the
222 amounts transferred to the General Revenue Fund in the previous
223 fiscal year pursuant to subsections (4) and (7) ~~subsections (8)~~
224 ~~and (9), reduced by the amount of refunds paid pursuant to~~
225 ~~subsection (10),~~ which are in excess of the official estimate
226 for medical hospital fees for such previous fiscal year adopted
227 by the Revenue Estimating Conference on January 12, 2012, as
228 reflected in the conference's workpapers. By July 20 of each
229 year, the Office of Economic and Demographic Research shall
230 certify the amount to be transferred to the Chief Financial
231 Officer. Such transfers must be made before July 31 of each year
232 until the total transfers for all years equal $350 million. If

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

233 ~~In the event that~~ such transfers do not total $350 million by
234 July 1, 2021, the Legislature shall provide for the transfer of
235 amounts necessary to total $350 million. The Office of Economic
236 and Demographic Research shall publish the official estimates
237 reflected in the conference's workpapers on its website.
238 (9) ~~(12)~~ The agency may adopt rules to administer this
239 section.
240 Section 2. Notwithstanding s. 409.915(3) and (4), Florida
241 Statutes, as amended by this act, the amount of each county's
242 contribution during the 2013-2014 state fiscal year shall be
243 determined and provided to the Department of Revenue by the
244 Agency for Health Care Administration by June 15, 2013. The
245 Department of Revenue shall notify each county of its annual
246 contribution by June 20, 2013.
247 Section 3. This act shall take effect upon becoming a law.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Health Policy

BILL: SM 1600

INTRODUCER: Senator Bean

SUBJECT: Health Insurance Tax

DATE: April 10, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Lloyd	Stovall	HP	**Favorable**
2.				
3.				
4.				
5.				
6.				

I. Summary:

SM 1600 urges the Congress of the United States to enact legislation to repeal the health insurance tax contained in sections 9010 and 10905 of the Patient Protection and Affordable Care Act and section 1406 of the Health Care and Education Reconciliation Act.

II. Present Situation:

The federal Patient Protection and Affordable Care Act (PPACA) was signed into law on March 23, 2010.[1] Among its changes to the United States health care system are expansion of Medicaid eligibility to a national threshold of 133 percent of the federal poverty level (FPL), and requirements for health insurers to make coverage available to all individuals and employers, without exclusions for pre-existing conditions and without basing premiums on any health related factors. The PPACA imposes many insurance requirements including required benefits, rating and underwriting standards, required review of rate increases, reporting of medical loss ratios and payment of rebates, covering adult dependants, internal and external appeals of adverse benefits determinations, and other requirements.[2]

Florida, along with 25 other states challenged the constitutionality of the law. In *NFIB v. Sebelius*, the Supreme Court found the enforcement provisions of the Medicaid expansion unconstitutional.[3] As a result, states could voluntarily expand their Medicaid populations to

[1] P.L. 111-148. On March 30, 2010, PPACA was amended by P.L. 111-152, the Health Care and Education Reconciliation Act of 2010. Collectively, the law is known as PPACA.

[2] Most of the insurance regulatory provisions in PPACA amend Title XXVII of the Public Health Service Act (PHSA), (42 U.S.C. 300gg et seq.).

[3] *National Federation of Independent Business v. Sebelius, 567 U.S.___(2012).*

133 percent of the FPL and receive the enhanced federal match, but could not be required to do so for the population defined as newly eligible in the law, which was interpreted to be only the adult population.[4]

In addition to the Medicaid expansion component, the federal reform law imposes a mandate on most individuals to buy insurance, or pay a penalty.[5] Currently, many uninsured individuals are eligible for Medicaid or Kidcare coverage, but are not enrolled. The existence of the federal mandate to purchase insurance could result in many eligibles coming forward and enrolling in Medicaid who had not previously chosen to do so. While these eligibles are currently entitled to Medicaid coverage, their participation will result in increased costs and would not likely have occurred without the catalyst of the federal legislation.

To obtain insurance coverage, PPACA authorized the state-based American Health Benefit Exchanges and Small Business Health Options Program (SHOP) Exchanges.[6] These exchanges are to be administered by governmental agencies or non-profit organizations and be ready to accept applications for coverage beginning October 1, 2013, for January 1, 2014 coverage dates.

The exchanges, at a minimum, must:[7]

- Certify, re-certify and de-certify plans participating on the exchange;
- Operate a toll-free hotline;
- Maintain a website;
- Provide plan information and plan benefit options;[8]
- Interact with the state's Medicaid and CHIP programs and provide information on eligibility and determination of eligibility for these programs;
- Certify individuals that gain exemptions from the individual responsibility requirement; and,
- Establish a navigator program.

The initial guidance from the Department of Health and Human Services in November 2010 set forth a number of principles and priorities for the exchanges. Further guidance was issued on May 16, 2012 detailing the proposed operations of the federally facilitated exchanges for those states that elected not to implement a state-based, separate system. On November 16, 2012, Florida Governor Rick Scott notified the Health and Human Services Secretary, Kathleen Sebelius that Florida had too many unanswered questions to commit to a state-based exchange

[4] Department of Health and Human Services, *Secretary Sebelius Letter to Governors, July 10, 2012*, http://capsules.kaiserhealthnews.org/wp-content/uploads/2012/07/Secretary-Sebelius-Letter-to-the-Governors-071012.pdf (last visited April 10, 2013).

[5] In *NFIB v. Sebelius*, the United States Supreme Court upheld the individual mandate which requires most individuals to maintain "minimum essential coverage" for health insurance coverage. For those who do not maintain such coverage and are not exempt, a shared responsibility payment or penalty will be paid to the Internal Revenue Service. The other main argument in *NFIB* concerned the directive that states expand Medicaid to 133 percent of the federal poverty level for adults. While the ruling did not overturn the mandatory Medicaid expansion, the penalty for not expanding coverage to the new minimum threshold, the loss of a state's entire Medicaid federal matching funds for not doing so, was found unconstitutional.

[6] An individual may obtain qualifying insurance coverage outside of an exchange.

[7] Centers for Medicare and Medicaid Services, Initial Guidance to States on Exchanges, November 18, 2010, http://cciio.cms.gov/resources/files/guidance_to_states_on_exchanges.html (last visited April 10, 2013).

[8] In recent weeks, the Department of Health and Human Services has reported that the SHOP exchanges may not be offering a choice of health plans to businesses in the first year.

under the PPACA for the first enrollment period on January 1, 2014.[9] Accordingly, the insurance exchanges (now referred to as marketplaces) in Florida will be the responsibility of the federal government.

Section 9010 of the PPACA provides for the assessment of an annual fee on any health insurance provider starting in 2014 with a few exceptions. The national assessment amount, pro-rated among covered entities based on revenue market share, is determined in the PPACA as $8 billion in 2014 and increases to $14.3 billion by 2018 as reflected in the chart below.[10] The amount collected after 2018 is indexed to the rate of premium growth for the preceding calendar year.[11]

Calendar Year	Applicable Amount to be Pro-Rated
2014	$8,000,000,000
2015	$11,300,000,000
2016	$11,300,000,000
2017	$13,900,000,000
2018	$14,300,000,000
After 2018	Indexed to rate of premium growth

The determination of which health insurers pay the assessment is based on whether or not the insurer meets the definition of a "covered entity" under the PPACA. In general, the PPACA defines a covered entity as any entity which provides health insurance for any United States health risk during the calendar year in which the fee is due.[12] Exclusions to this definition are also provided and include the following:[13]

- Employers who self insure.
- Any governmental entity.
- Any entity which is incorporated as a non-profit under State law and,
  - Where no part of the net earnings inures to the benefit of a private shareholder or individual;
  - Meets the limitations on lobbying and participation in political activities; and,
  - Receives more than 80 percent of the entity's gross revenues from government programs that target low-income, elderly, or disabled populations under Titles XVIII, XIX or XXI of the Social Security Act.
- Any entity described under section 501(c)(9) of the Internal Revenue Code and which is established by an entity, other than an employer or employers, for purposes of providing health care benefits.

[9] *Letter from Governor Rick Scott to Health and Human Services Secretary Kathleen Sebelius,* November 16, 2012 http://www.flgov.com/2012/11/16/letter-from-governor-rick-scott-to-u-s-secretary-of-health-and-human-services-kathleen-sebelius/ (last visited April 10, 2013).
[10] PPACA, s. 9010(e).
[11] Id.
[12] PPACA, s. 9010(c)(1).
[13] PPACA, s. 9010(c)(2); *See also* Notice of Proposed Rulemaking Published at 78 F.R. 14034, 14042, (March 4, 2013).

Health insurance premiums paid for enrollees in Medicare and Medicaid plans are not excluded from the tax.[14] According to estimates from Florida's Office of Economic and Demographic Research, the total cost of the tax for Medicaid Managed Care ranges from $31.6 million in fiscal year 2013-2014 to $471 million in fiscal year 2022-2023.[15]

The calculation of each covered entity's share of the tax is based on the entity's relative market share utilizing net premiums from the previous calendar year.[16] The amount of net premiums taken into account when determining market share; however, is subject to certain thresholds before a percentage is applied.[17] If net premiums do not exceed $25 million, then 0 percent is taken into account for this purpose.[18] For amounts greater than $25 million but less than $50 million, the percentage is 50 and for more than $50 million, the percentage is 100.[19] A covered entity may have an additional 50 percent excluded for certain activities, such as their status as public charity or a high risk insurance pool.[20]

The PPACA provision requires health insurers to report their net premiums for the calendar year to the Secretary of the Department of Health and Human Services by a date determined by the Secretary.[21] Penalties for both a failure to report and for accuracy errors are also included in the law.[22] The Notice of Proposed Rulemaking released on March 4, 2013, indicates that the Internal Revenue Service (IRS) will notify each covered entity of its preliminary fee calculation but the timing of that notice will be covered in later IRS guidance.[23]

III. Effect of Proposed Changes:

SM 1600 urges the United States Congress to repeal the health insurance tax implemented under the PPACA and further inform the President of the United States and certain members of Congress of the estimated impact the tax would have on Florida. Absent repeal, health insurers in Florida will be required to pay the health insurance tax and the state will be required to pay the tax on premiums for Medicaid recipients enrolled in Medicaid managed care plans beginning in 2014. For policyholders in Florida, it is expected that the tax paid by the insurers to the federal government will be passed along in the premium rates.

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[14] Notice of Proposed Rulemaking (NPRM) at 78 C.F.R. 14034, 14042 (Mar. 4, 2013); Definition of covered entity includes an entity that provides health insurance under Medicare Advantage, Medicare Part D or Medicaid.
[15] Office of Economic and Demographic Research (EDR), *Economic Analysis of PPACA and Medicaid Expansion*, Presentation to Select Committees on Patient Protection and Affordable Care Act (March 4, 2013), p.4, http://edr.state.fl.us/Content/presentations/affordable-care-act/EconomicAnalysisofPPACAandMedicaidExpansion.pdf (last visited April 10, 2013).
[16] PPACA, s. 9010(b).
[17] The Joint Committee on Taxation, United States Congress, *Present Law and Background Relating to the Tax-Related Provisions in the Affordable Care Act*, March 5, 2013, p. 90, https://www.jct.gov/publications.html (last visited April 10, 2013).
[18] PPACA, s. 9010(b)(2)(A).
[19] Id.
[20] PPACA, s. 9010(b)(2)(B).
[21] PPACA, s. 9010(g)(1).
[22] PPACA, s. 9010(g)(2) and (3).
[23] NPRM, *supra*, note 14 at 14045.

Other Potential Implications:

The provisions of section 9010 of the PPACA treat for-profit and not-for-profit health insurers in a disparate manner. For those covered entities that receive more than 80 percent of their gross revenues from government programs, are non-profit organizations and can meet the other qualifications, they may achieve a competitive advantage through their exclusion from the covered entity definition and therefore, the health insurance tax payment. Repeal of the health insurance tax would remove that differential treatment.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The health insurance tax is identified in the PPACA legislation as an excise tax to be paid by covered entities. This federal tax will be collected by the federal government and all revenue will belong to the federal government. Because the tax is an excise tax, it is also not deductible by the affected organizations as a business expense.[24]

B. Private Sector Impact:

The National Federation of Independent Business's (NFIB) Research Foundation has reported that the tax will result in a reduction in private sector jobs of 146,000 to 262,000 by 2022 nationwide or 6,100 in Florida by 2022, with 59 percent of those coming from small business.[25] The same report indicated that the impact further translated into a reduction of output or sales by between $19 billion to $35 billion nationwide or $2.3 billion for Florida, alone.[26]

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[24] The Joint Committee on Taxation, *supra*, note 17 at 92.
[25] Press Release, National Federal of Independent Business, *Update: NFIB Research Foundation Study Now Shows Health Insurance Tax to Cost 146,000 to 262,000 Private Sector Jobs* (March 19, 2013), http://www.nfib.com/research-foundation/studies/hit-cost (last visited April 10, 2013).
[26] Id.

Regarding impact to health insurance premiums in the private sector, a study conducted by the Oliver Wyman firm on behalf of America's Health Insurance Plans (AHIP), reviewed the fees to be assessed and the estimated allocation of those fees by state. The estimated average increase, nationally, in rates due to taxes on insured plans was 1.9 percent to 2.3 percent in 2014, increasing to a range of 2.8 percent to 3.7 percent by 2023.[27]

The AHIP report's state projection of aggregate taxes per contract for Florida is based on two scenarios, one where current enrollment ratios with self-insurance do not change and one where self-insurance which is exempt from the tax, does change. The average change in taxes for family coverage when averaging the two scenarios ranged from $4,881 for an individual family contract to $7,767 for a large group family contract from 2014 to 2023.[28]

C. Government Sector Impact:

The health insurance tax applies to premiums paid both under the Medicaid and the CHIP program in Florida, unless the covered entity meets the exemption under the law as a non-profit entity with greater than 80 percent of revenues derived from low income populations funded under Titles XVIII (Medicare), XIX (Medicaid) and XXI (CHIP). Since Medicare is 100 percent federally funded, except for those dually eligible for Medicaid, those affected would be those recipients enrolled in Medicaid and CHIP under managed care plans.

The Social Services Estimating Conference last estimated that the health insurance tax under this provision would have a fiscal impact for Medicaid ranging from $31.6 million in fiscal year 2013-2014, to $471.0 million by fiscal year 2022-2023, the last year in which the Conference made estimates.[29] The state share of those costs range from $13.1 million in fiscal year 2013-2014 to $192.5 million in fiscal year 2022-2023.[30]

In a report for the Medicaid Health Plans of America, Milliman, Inc., also noted that states that contract with nonprofit managed care organizations will pay a lower health insurer fee because:[31]

- Non-profit entities that receive more than 80 percent of gross revenues from government programs that target certain populations are exempt from the fee;
- Certain covered entities can exclude 50 percent of their net premium; and,
- Nonprofit insurers are exempt from the corporate income tax.

[27] Chris Carlson, *Annual Tax on Insurers Allocated by State (November 2012)*, Oliver Wyman, p. 4, http://ahip.org/templates/Issues/documentResults.aspx?id=5775&cat=2147484864 (last visited April 10, 2013).
[28] Id at 16.
[29] EDR, *supra*, note 15.
[30] EDR, *supra*, note 15.
[31] John D. Meerschaert et al., *PPACA Health Insurer Fee: Estimated Impact on State Medicaid Programs and Medicaid Health Plans (January 31, 2012)*, Milliman, p. 13, http://www.mhpa.org/_upload/MillimanReport.pdf (last visited April 10, 2013).

Milliman cited the issue that since the health insurance tax is an excise tax and as a result, all funds accrue to the federal government, the federal government is in a sense, taxing itself on federally funded or federally matched programs.[32]

Milliman pointed out since the health insurance fee is non-deductible, every $1.00 of the health insurance fee will need to be funded at $1.54 to keep the net financial impact on the Medicaid managed care organization at zero, taking into consideration the 35 percent corporate income tax that is assessed on federal tax revenue.[33]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

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

[32] Id at 8.
[33] Meerschaert, *supra*, Note 31 at 9.

By Senator Bean

4-00251-13 20131600__

Senate Memorial

A memorial to the Congress of the United States, urging Congress to repeal the health insurance tax contained in sections 9010 and 10905 of the Patient Protection and Affordable Care Act and section 1406 of the Health Care and Education Reconciliation Act.

WHEREAS, sections 9010 and 10905 of the Patient Protection and Affordable Care Act (Pub. L. No. 111-148) and section 1406 of the Health Care and Education Reconciliation Act (Pub. L. No. 111-152) impose an unprecedented new tax on health insurance which numerous policy experts agree will be passed on to individuals, working families, small employers, and seniors, contradicting a primary goal of health reform by making health care more expensive, and

WHEREAS, the health insurance tax could cause health care premiums for working families in Florida to rise by as much as $4,881 to $7,767 on average over a ten-year period, and

WHEREAS, the health insurance tax will impact small employers nationwide over the next decade, reducing future private-sector jobs by 125,000, with 59 percent of those jobs being eliminated from small businesses, and reducing potential sales by at least $18 billion, with 50 percent of that loss being borne by small businesses, and

WHEREAS, Florida is estimated to be in the top five states with the highest average aggregate impact on Medicare Advantage beneficiaries between 2014 and 2023, with the ten-year impact per person estimated at $4,181, and

WHEREAS, according to the recommended budget released by

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

30 Governor Rick Scott, the cost of the health insurance tax on
31 Medicaid is estimated at $31.6 million, $13.1 million of which
32 will come from state funds due to an annual tax that will be
33 placed on health insurance providers under the new law, based on
34 preliminary estimates for the 2013-2014 year for Medicaid
35 premiums, and
36 WHEREAS, higher premiums are a disincentive for everyone to
37 obtain insurance coverage, particularly younger, healthier
38 people, who are likely to drop their policies due to increased
39 expense, further eroding the risk pool and making coverage even
40 less affordable, NOW, THEREFORE,
41
42 Be It Resolved by the Legislature of the State of Florida:
43
44 That the Congress of the United States is urged to enact
45 legislation to repeal the health insurance tax contained in
46 sections 9010 and 10905 of the Patient Protection and Affordable
47 Care Act and section 1406 of the Health Care and Education
48 Reconciliation Act to make health care more affordable for
49 working families, individuals, and businesses.
50 BE IT FURTHER RESOLVED that copies of this memorial be
51 dispatched to the President of the United States, to the
52 President of the United States Senate, to the Speaker of the
53 United States House of Representatives, and to each member of
54 the Florida delegation to the United States Congress.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

By the Committee on Children, Families, and Elder Affairs; and Senator Flores

586-04334-13 2013110c1

A bill to be entitled

An act relating to the Florida Mental Health Act; requiring the Department of Children and Families to convene a work group to review the Florida Mental Health Act to determine whether certain revisions are necessary; requiring the work group to submit a report to the Governor and the Legislature by a specified date; providing an effective date.

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

Section 1. The Department of Children and Families shall convene a work group to review part I of chapter 394, the Florida Mental Health Act, to determine whether revisions are necessary to improve the efficiency and effectiveness of its operation and to recommend the appropriate changes. The department shall submit a report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2014.

Section 2. This act shall take effect July 1, 2013.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

Bill Not Yet Received

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Health Policy

BILL: CS/CS/SB 1384

INTRODUCER: Health Policy Committee; Judiciary Committee; and Senator Galvano

SUBJECT: Nursing Home Litigation

DATE: April 16, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Munroe	Cibula	JU	**Fav/CS**
2.	Looke	Stovall	HP	**Fav/CS**
3.			RC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

CS/CS/SB 1384 amends statutory provisions relating to civil causes of action against nursing homes. The bill:

- Requires the court to hold an evidentiary hearing before allowing a claim for punitive damages to proceed.
- Prohibits the use of a state or federal survey report of nursing facilities to establish an entitlement to punitive damages.

This bill substantially amends section 400.0237, Florida Statutes.

II. Present Situation:

Causes of Action in Nursing Homes

Section 400.022, F.S., specifies the rights and responsibilities of nursing home residents. Section 400.023, F.S., creates a statutory cause of action against nursing homes that violate the statutory rights of residents. The action may be brought in any court to enforce the resident's rights and to recover actual and punitive damages for any violation of a resident's statutory rights

or for negligence.[1] Prevailing plaintiffs may be entitled to recover reasonable attorney fees plus costs of the action along with actual and punitive damages.[2]

Sections 400.023-400.0238, F.S., provide the exclusive remedy for a cause of action for recovery of damages for the personal injury or death of a nursing home resident arising out of negligence or a violation of a resident's statutory rights. A claim for punitive damages is not permitted unless there is a reasonable showing by evidence in the record or proffered by the claimant which would provide a reasonable basis for recovery of such damages.[3] A defendant may be held liable for punitive damages only if the trier of fact, based on clear and convincing evidence, finds that the defendant was personally guilty of intentional misconduct or gross negligence as defined in s. 400.0237(2), F.S.[4]

In the case of an employer, principal, corporation, or other entity, punitive damages may be imposed for conduct of an employee or agent only for intentional misconduct or gross negligence which is proven by clear and convincing evidence if the employer actively and knowingly participated in the conduct, ratified or consented to the conduct, or engaged in conduct that constituted gross negligence and that contributed to the loss, damages, or injury suffered by the claimant.[5]

Elements in a Civil Action Under s. 400.023, F.S.

Section 400.023(2), F.S., provides that in any claim alleging a violation of a resident's rights or alleging that negligence caused injury to or the death of a resident, the claimant must prove, by a preponderance of the evidence:

- The defendant owed a duty to the resident;
- The defendant breached the duty to the resident;
- The breach of the duty is a legal cause of loss, injury, death, or damage to the resident; and
- The resident sustained loss, injury, death, or damage as a result of the breach.

In general, the Florida Supreme Court has set forth the elements of a negligence action:

- A duty, or obligation, recognized by the law, requiring the [defendant] to conform to a certain standard of conduct, for the protection of others against unreasonable risks;
- A failure on the [defendant's] part to conform to the standard required: a breach of the duty;
- A reasonably close causal connection between the conduct and the resulting injury;[6] and
- Actual loss or damage.[7]

Current law provides that in any claim brought pursuant to s. 400.023, F.S., a licensee, person, or entity has the duty to exercise "reasonable care" and nurses[8] have the duty to exercise care "consistent with the prevailing professional standard of care."[9]

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[1] Sections 400.023 and 400.0237, F.S.
[2] *Id.*
[3] Section 400.0237(1), F.S.
[4] Section 400.0237(2), F.S.
[5] Section 400.0237(3), F.S.
[6] This is what is commonly known as "legal cause," or "proximate cause," and which includes the notion of cause in fact.
[7] *United States v. Stevens*, 994 So. 2d 1062, 1065-66 (Fla. 2008).

Punitive Damages

Current law provides for recovery of punitive damages by a claimant. Punitive damages "are not compensation for injury. Instead, they are private fines levied by civil juries to punish reprehensible conduct and to deter its future occurrence."[10] For a claim for damages relating to a violation of resident rights or negligence in a nursing home, punitive damages are generally limited to three times the amount of compensatory damages or $1 million, whichever is greater.[11] Damages can exceed $1 million if the jury finds that the wrongful conduct was motivated primarily by unreasonable financial gain and determines that the unreasonably dangerous nature of the conduct, together with the high likelihood of injury resulting from the conduct, was actually known by the managing agent, director, officer, or other person responsible for making policy decisions on behalf of the defendant.[12] If the jury finds that the defendant had a specific intent to harm the claimant and determines that the defendant's conduct did in fact harm the claimant, there is no cap on punitive damages.[13]

Evidentiary Requirements to Bring a Punitive Damages Claim

Section 400.0237(1), F.S., provides:

> In any action for damages brought under this part, no claim for punitive damages shall be permitted unless there is a reasonable showing by evidence in the record or proffered by the claimant which would provide a reasonable basis for recovery of such damages. The claimant may move to amend her or his complaint to assert a claim for punitive damages as allowed by the rules of civil procedure. The rules of civil procedure shall be liberally construed so as to allow the claimant discovery of evidence which appears reasonably calculated to lead to admissible evidence on the issue of punitive damages. No discovery of financial worth shall proceed until after the pleading concerning punitive damages is permitted.

A court discussed how a claimant can make a proffer to assert a punitive damages claim:

> [A] 'proffer' according to traditional notions of the term, connotes merely an 'offer' of evidence and neither the term standing alone nor the statute itself calls for an adjudication of the underlying veracity of that which is submitted, much less for countervailing evidentiary submissions. Therefore, a proffer is merely a representation of what evidence the defendant proposes to present and is not actual evidence. A reasonable showing by evidence in the record would typically include depositions, interrogatories, and requests for admissions that have been filed with the court. Hence, an evidentiary hearing where

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[8] "The prevailing professional standard of care for a nurse shall be that level of care, skill, and treatment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by reasonably prudent similar nurses." s. 400.023(4), F.S.
[9] *See* s. 400.023(3) and (4), F.S.
[10] *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 350 (1974).
[11] *See* s. 400.0238(1)(a), F.S.
[12] *See* s. 400.0238(1)(b), F.S.
[13] *See* s. 400.0238(1)(c), F.S.

> witnesses testify and evidence is offered and scrutinized under the pertinent evidentiary rules, as in a trial, is neither contemplated nor mandated by the statute in order to determine whether a reasonable basis has been established to plead punitive damages.[14, 15]

Punitive damages claims are often raised after the initial complaint has been filed. Once a claimant discovers enough evidence that the claimant believes justifies a punitive damages claim, the claimant files a motion to amend the complaint to add a punitive damages action. The trial judge considers the evidence presented and proffered by the claimant to determine whether the claim should proceed.

Current law does not require a showing of admissibility before the proceedings begin or to authorize the claimant and defendant to present evidence before a judge authorizes a claim for punitive damages. Current law contemplates that the claimant will proffer evidence and the court, considering the proffer in the light most favorable to the claimant, will determine whether reasonable basis exists to allow the claimant's punitive damages case to proceed.[16] However, discovery of the defendant's financial worth may not proceed until the pleading on punitive damages is permitted.[17]

Individual Liability for Punitive Damages

Section 400.0237(2), F.S., provides:

> A defendant may be held liable for punitive damages only if the trier of fact, based on clear and convincing evidence, finds that the defendant was personally guilty of intentional misconduct[18] or gross negligence.[19]

Vicarious Liability for Punitive Damages

Punitive damages claims are sometimes brought under a theory of vicarious liability where an employer is held responsible for the acts of an employee. Section 400.0237(3), F.S., provides that in the case of an employer, principal, corporation, or other legal entity, punitive damages may be imposed for the conduct of an employee or agent only if the conduct of the employee or agent meets certain criteria[20] and:

- The employer, principal, corporation, or other legal entity actively and knowingly participated in such conduct;
- The officers, directors, or managers of the employer, principal, corporation, or other legal entity condoned, ratified, or consented to such conduct; or

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[14] *Estate of Despain v. Avante Group, Inc.*, 900 So. 2d 637, 642 (Fla. 5th DCA 2005)(internal citations omitted).
[15] The *Despain* court was discussing a prior version of the punitive damages statute relating to nursing home litigation, but the language on proffering in that statute is the same as that in current law.
[16] *See Estate of Despain*, *supra*, note 16.
[17] *See* s. 400.0237(1)(b), F.S.
[18] "Intentional misconduct" is actual knowledge of the wrongfulness of the conduct and the high probability that injury or damage to the claimant will result and, despite that knowledge, intentionally pursuing a course of conduct that results in injury or damage. *See* s. 400.0237(2)(a), F.S.
[19] "Gross negligence" is conduct that is so reckless or wanting in care such that it constitutes a conscious disregard or indifference to the life, safety, or rights of persons exposed to such conduct. *See* s. 400.0237(2)(b), F.S.
[20] Criteria are whether the defendant was personally guilty of intentional misconduct or gross negligence.

- The employer, principal, corporation, or other legal entity engaged in conduct that constituted gross negligence and that contributed to the loss, damages, or injury suffered by the claimant.

III. Effect of Proposed Changes:

Evidentiary Requirements to Bring a Punitive Damages Claim

The bill provides that a claimant may not bring a claim for punitive damages unless admissible evidence submitted by the parties provides a reasonable basis for the recovery of punitive damages. The bill requires the court to conduct an evidentiary hearing where all parties present evidence. The judge must find that a reasonable basis exists to believe that the claimant will be able to demonstrate, by clear and convincing evidence, that the recovery of punitive damages is warranted. These requirements limit a judge to considering only admissible evidence.

Current law provides that the rules of civil procedure are to be liberally construed to allow the claimant discovery of admissible evidence on the issue of punitive damages. The bill removes that provision from statute. Discovery in civil cases is governed by the Florida Rules of Civil Procedure. Because the rules govern discovery, the effect of removing the provision, if any, is not clear.

The bill clarifies that the claimant may not proceed with discovery on the defendant's financial worth until after the trial judge approves the pleading on punitive damages.

Individual Liability for Punitive Damages

The bill provides that a defendant, including the licensee or management company against whom punitive damages is sought, may be held liable for punitive damages only if the trier of fact, based on clear and convincing evidence, finds that "a specific person or corporate defendant actively and knowingly participated in intentional misconduct or engaged in conduct that constitutes gross negligence and contributed to the loss, damages, or injury suffered by the claimant."

The bill strikes the current standard jury instructions which provide for punitive damages if the defendant was "personally guilty of intentional misconduct."[21] The bill requires that the defendant "actively and knowingly participated in intentional misconduct."

Vicarious Liability for Punitive Damages

The bill provides that in the case of vicarious liability of an employer, principal, corporation, or other legal entity, punitive damages may not be imposed for the conduct of an employee or agent unless:

- An identified employee or agent actively and knowingly participated in intentional misconduct, or engaged in conduct that constituted gross negligence, and that conduct contributed to the loss, damages, or injury suffered by the claimant; and

[21] Standard Jury Instructions in Civil Cases, 503.1, Punitive Damages - Bifurcated Procedure *available at* http://www.floridasupremecourt.org/civ_jury_instructions/instructions.shtml#500 (last visited Mar. 9, 2013).

- Officers, directors, or managers of the actual employer corporation or legal entity condoned, ratified, or consented to the specific conduct alleged.

The bill provides that a state or federal survey report of nursing facilities may not be used to establish an entitlement to punitive damages.

Effective Date

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS/CS by Health Policy on April 16, 2013:
The CS for CS clarifies that the hearing the court must conduct before a plaintiff is allowed to bring a punitive damages claim is evidentiary hearing where all parties submit evidence.

CS by Judiciary on April 1, 2013:
The committee substitute removes section 1 from the underlying bill, which would have amended s. 400.0023, F.S., to:

- Limit the class of persons who may be sued for a violation of a nursing home resident's rights to only the nursing home licensee, a management company employed by a nursing home licensee, or a direct caregiver employee.
- Make certain provisions of law the exclusive remedy against a nursing home licensee management company for a cause of action for the recovery damages for the personal injury or death of a nursing home resident arising out of negligence or a violation of a resident's statutory rights.
- Require the court to hold an evidentiary hearing to determine if sufficient evidence or a reasonable basis exists to find that a person or entity other than the nursing home licensee, the management company for the nursing home, or a direct caregiver owed a specific legal duty to the resident, breached that duty, and the breach of that duty is the legal cause of actual loss, injury, damage, or death to the resident.

B. Amendments:

None.

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

470516

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2013	.	
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The Committee on Health Policy (Galvano) recommended the following:

1 **Senate Amendment**
2
3 Delete lines 41 - 42
4 and insert:
5
6 (b) The court shall conduct an evidentiary hearing to
7 determine whether there is sufficient admissible evidence
8 submitted by all parties

498834

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/16/2013	.	
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The Committee on Health Policy (Joyner) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Between lines 96 and 97
4 insert:
5 Section 2. Subsection (3) of section 400.23, Florida
6 Statutes, is amended to read:
7 400.23 Rules; evaluation and deficiencies; licensure
8 status.—
9 (3)(a)1. The agency shall adopt rules providing minimum
10 staffing requirements for nursing home facilities. These
11 requirements must include, for each facility:
12 a. A minimum certified nursing assistant staffing of 2.9

498834

13 hours of direct care per resident per day. A facility may not
14 staff below one certified nursing assistant per 20 residents. ~~A~~
15 ~~minimum weekly average of certified nursing assistant and~~
16 ~~licensed nursing staffing combined of 3.6 hours of direct care~~
17 ~~per resident per day. As used in this sub-subparagraph, a week~~
18 ~~is defined as Sunday through Saturday.~~
19 b. A minimum licensed nursing staffing of 1.0 hour of
20 direct care per resident per day. A facility may not staff below
21 one licensed nurse per 40 residents. ~~A minimum certified nursing~~
22 ~~assistant staffing of 2.5 hours of direct care per resident per~~
23 ~~day. A facility may not staff below one certified nursing~~
24 ~~assistant per 20 residents.~~
25 ~~c. A minimum licensed nursing staffing of 1.0 hour of~~
26 ~~direct care per resident per day. A facility may not staff below~~
27 ~~one licensed nurse per 40 residents.~~
28 2. A Nursing assistant ~~assistants~~ employed under s.
29 400.211(2) may be included in computing the staffing ratio for
30 certified nursing assistants if their job responsibilities
31 include only nursing-assistant-related duties.
32 3. Each nursing home facility must document compliance with
33 staffing standards as required under this paragraph and post
34 daily the names of staff on duty for the benefit of facility
35 residents and the public.
36 4. The agency shall recognize the use of licensed nurses
37 for compliance with minimum staffing requirements for certified
38 nursing assistants if the nursing home facility otherwise meets
39 the minimum staffing requirements for licensed nurses and the
40 licensed nurses are performing the duties of a certified nursing
41 assistant. Unless otherwise approved by the agency, licensed

498834

42 nurses counted toward the minimum staffing requirements for
43 certified nursing assistants must exclusively perform the duties
44 of a certified nursing assistant for the entire shift and not
45 also be counted toward the minimum staffing requirements for
46 licensed nurses. If the agency approved a facility's request to
47 use a licensed nurse to perform both licensed nursing and
48 certified nursing assistant duties, the facility must allocate
49 the amount of staff time specifically spent on certified nursing
50 assistant duties for the purpose of documenting compliance with
51 minimum staffing requirements for certified and licensed nursing
52 staff. The hours of a licensed nurse with dual job
53 responsibilities may not be counted twice.
54 (b) Nonnursing staff providing eating assistance to
55 residents do ~~shall~~ not count toward compliance with minimum
56 staffing standards.
57 (c) Licensed practical nurses licensed under chapter 464
58 who are providing nursing services in nursing home facilities
59 under this part may supervise the activities of other licensed
60 practical nurses, certified nursing assistants, and other
61 unlicensed personnel providing services in such facilities in
62 accordance with rules adopted by the Board of Nursing.
63 Section 3. For the purpose of incorporating the amendment
64 made by this act to section 400.23, Florida Statutes, in a
65 reference thereto, paragraphs (g) and (n) of subsection (1) of
66 section 400.141, Florida Statutes, are reenacted, and paragraph
67 (n) of subsection (1) of that section is amended, to read:
68 400.141 Administration and management of nursing home
69 facilities.—
70 (1) Every licensed facility shall comply with all

498834

71 applicable standards and rules of the agency and shall:
72 (g) If the facility has a standard license, exceeds the
73 minimum required hours of licensed nursing and certified nursing
74 assistant direct care per resident per day, and is part of a
75 continuing care facility licensed under chapter 651 or a
76 retirement community that offers other services pursuant to part
77 III of this chapter or part I or part III of chapter 429 on a
78 single campus, be allowed to share programming and staff. At the
79 time of inspection, a continuing care facility or retirement
80 community that uses this option must demonstrate through
81 staffing records that minimum staffing requirements for the
82 facility were met. Licensed nurses and certified nursing
83 assistants who work in the facility may be used to provide
84 services elsewhere on campus if the facility exceeds the minimum
85 number of direct care hours required per resident per day and
86 the total number of residents receiving direct care services
87 from a licensed nurse or a certified nursing assistant does not
88 cause the facility to violate the staffing ratios required under
89 s. 400.23(3)(a). Compliance with the minimum staffing ratios
90 must be based on the total number of residents receiving direct
91 care services, regardless of where they reside on campus. If the
92 facility receives a conditional license, it may not share staff
93 until the conditional license status ends. This paragraph does
94 not restrict the agency’s authority under federal or state law
95 to require additional staff if a facility is cited for
96 deficiencies in care which are caused by an insufficient number
97 of certified nursing assistants or licensed nurses. The agency
98 may adopt rules for the documentation necessary to determine
99 compliance with this provision.

498834

100 (n) Comply with state minimum-staffing requirements:
101 1. A facility that has failed to comply with state minimum-
102 staffing requirements for 2 consecutive days is prohibited from
103 accepting new admissions until the facility has achieved the
104 minimum-staffing requirements for 6 consecutive days. For the
105 purposes of this subparagraph, any person who was a resident of
106 the facility and was absent from the facility for the purpose of
107 receiving medical care at a separate location or was on a leave
108 of absence is not considered a new admission. Failure by the
109 facility to impose such an admissions moratorium is subject to a
110 $1,000 fine.
111 2. A facility that does not have a conditional license may
112 be cited for failure to comply with the standards in s.
113 400.23(3)(a)1.b. ~~and c.~~ only if it has failed to meet those
114 standards on 2 consecutive days or if it has failed to meet at
115 least 97 percent of those standards on any one day.
116 3. A facility that has a conditional license must be in
117 compliance with the standards in s. 400.23(3)(a) at all times.
118
119 ========== T I T L E A M E N D M E N T ==========
120 And the title is amended as follows:
121 Delete line 24
122 and insert:
123 damages; amending s. 400.23, F.S.; revising minimum
124 staffing requirements for nursing homes; reenacting
125 and amending s. 400.141(1)(g) and (1)(n), F.S.,
126 relating to the administration and management of
127 nursing home facilities, to incorporate the amendment
128 made to s. 400.23, F.S., in a reference thereto;

498834

129 providing an effective date.

529686

LEGISLATIVE ACTION

Senate	.	House
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The Committee on Health Policy (Joyner) recommended the following:

Senate Amendment to Amendment (498834)

Delete lines 111 - 113
and insert:
2. A facility that does not have a conditional license may be cited for failure to comply with the standards in s. 400.23(3)(a)1.a. and b. ~~400.23(3)(a)1.b. and c.~~ only if it has failed to meet those

747198

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/16/2013	.	
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The Committee on Health Policy (Joyner) recommended the following:

1 **Senate Amendment**
2
3 In title, delete line 2
4 and insert:
5 An act relating to nursing homes; amending

By the Committee on Judiciary; and Senator Galvano

590-03362-13 20131384c1

A bill to be entitled

An act relating to nursing home litigation; amending s. 400.0237, F.S.; providing that a claim for punitive damages may not be brought unless there is a showing of admissible evidence proffered by the parties which provides a reasonable basis for recovery of punitive damages when certain criteria are applied; requiring the court to conduct a hearing to determine whether there is sufficient admissible evidence to ensure that there is a reasonable basis to believe that the claimant will be able to demonstrate by clear and convincing evidence that the recovery of punitive damages is appropriate; requiring the trier of fact to find by clear and convincing evidence that a specific person or corporate defendant actively and knowingly participated in intentional misconduct or engaged in conduct that constituted gross negligence and contributed to the loss, damages, or injury suffered by the claimant before punitive damages may be awarded; requiring an officer, director, or manager of the employer, corporation, or legal entity to condone, ratify, or consent to certain specified conduct before holding the licensee vicariously liable for punitive damages; providing an effective date.

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

Section 1. Section 400.0237, Florida Statutes, is amended to read:

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

30 400.0237 Punitive damages; pleading; burden of proof.—
31 (1)(a) In any action ~~for damages~~ brought under this part, a
32 ~~no~~ claim for punitive damages may not be brought ~~shall be~~
33 ~~permitted~~ unless there is a ~~reasonable~~ showing of admissible ~~by~~
34 evidence that has been submitted ~~in the record or proffered~~ by
35 the parties and provides ~~claimant which would provide~~ a
36 reasonable basis for recovery of such damages when the criteria
37 in this section are applied. The claimant may move to amend her
38 or his complaint to assert a claim for punitive damages as
39 allowed by the rules of civil procedure in accordance with
40 evidentiary requirements set forth in this section.
41 (b) The court shall conduct a hearing to determine whether
42 there is sufficient admissible evidence submitted by the parties
43 to ensure that there is a reasonable basis to believe that the
44 claimant, at trial, will be able to demonstrate by clear and
45 convincing evidence that the recovery of such damages is
46 warranted. A ~~The rules of civil procedure shall be liberally~~
47 ~~construed so as to allow the claimant discovery of evidence~~
48 ~~which appears reasonably calculated to lead to admissible~~
49 ~~evidence on the issue of punitive damages. No~~ discovery of
50 financial worth may not ~~shall~~ proceed until ~~after~~ the pleading
51 on ~~concerning~~ punitive damages is approved by the court
52 ~~permitted~~.
53 (2) A defendant may be held liable for punitive damages
54 only if the trier of fact, by ~~based on~~ clear and convincing
55 evidence, finds that a specific person or corporate defendant
56 actively and knowingly participated in intentional misconduct or
57 engaged in conduct that constitutes gross negligence and
58 contributed to the loss, damages, or injury suffered by the

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

59 claimant ~~the defendant was personally guilty of intentional~~
60 ~~misconduct or gross negligence~~. As used in this section, the
61 term:
62 (a) "Intentional misconduct" means that the defendant
63 against whom punitive damages are sought had actual knowledge of
64 the wrongfulness of the conduct and the high probability that
65 injury or damage to the claimant would result and, despite that
66 knowledge, intentionally pursued that course of conduct,
67 resulting in injury or damage.
68 (b) "Gross negligence" means that the defendant's conduct
69 was so reckless or wanting in care that it constituted a
70 conscious disregard or indifference to the life, safety, or
71 rights of persons exposed to such conduct.
72 (3) In the case of vicarious liability of an employer,
73 principal, corporation, or other legal entity, punitive damages
74 may not be imposed for the conduct of an employee or agent
75 unless ~~only if~~ the conduct of a specifically identified ~~the~~
76 employee or agent meets the criteria specified in subsection (2)
77 and an officer, director, or manager of the actual employer,
78 corporation, or legal entity condoned, ratified, or consented to
79 the specific conduct as alleged in subsection (2). A state or
80 federal survey report of nursing facilities may not be used to
81 establish an entitlement to punitive damages under this section~~:~~
82 ~~(a) The employer, principal, corporation, or other legal~~
83 ~~entity actively and knowingly participated in such conduct;~~
84 ~~(b) The officers, directors, or managers of the employer,~~
85 ~~principal, corporation, or other legal entity condoned,~~
86 ~~ratified, or consented to such conduct; or~~
87 ~~(c) The employer, principal, corporation, or other legal~~

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

88 ~~entity engaged in conduct that constituted gross negligence and~~
89 ~~that contributed to the loss, damages, or injury suffered by the~~
90 ~~claimant~~.
91 (4) The plaintiff shall ~~must~~ establish at trial, by clear
92 and convincing evidence, its entitlement to an award of punitive
93 damages. The "greater weight of the evidence" burden of proof
94 applies to a determination of the amount of damages.
95 (5) This section is remedial in nature and takes ~~shall take~~
96 effect upon becoming a law.
97 Section 2. This act shall take effect upon becoming a law.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Health Policy

BILL: SB 488

INTRODUCER: Senators Braynon and Clemens

SUBJECT: Medicaid Dental Services

DATE: April 11, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Lloyd	Stovall	HP	**Pre-meeting**
2.			CF	
3.			AHS	
4.			AP	
5.				
6.				

I. Summary:

SB 488 amends s. 409.906(6), F.S., to authorize the Agency for Health Care Administration (AHCA) to reimburse a health access setting operating as a Medicaid provider for dental services authorized under s. 466.024(2), F.S., provided to a recipient younger than 21 years of age and rendered by a licensed dental hygienist.

This bill substantially amends s. 409.906, F.S.

II. Present Situation:

Medicaid is a joint federal and state funded program that provides health care for low income Floridians. The program is administered by the AHCA and financed with federal and state funds. Over 3.3 million Floridians are currently enrolled in Medicaid and the program is expected to have more than $22 billion in expenditures for fiscal year 2012-2013.[1] Of those enrollees, more than 1.7 million are children.[2] The statutory authority for the Medicaid program is contained in ch. 409, F.S.

Federal law establishes the minimum benefit levels to be covered in order to receive federal matching funds. Benefit requirements can vary by eligibility category. For example, more

[1] Agency for Health Care Administration, *Statewide Medicaid Managed Care Overview, Presentation to House Health Care Subcommittee*, (Jan. 15, 2013), http://ahca.myflorida.com/Medicaid/recent_presentations/SMMC_Overview_House_HHS_Approps.pdf (last visited Mar. 8, 2013).

[2] Agency for Health Care Administration, *Florida KidCare Enrollment Report, March 2013*(on file with the Senate Health Policy Committee).

benefits are required for children than for the adult population. Florida's mandatory and optional benefits are prescribed in state law under ss. 409.905 and 409.906, F.S., respectively. Children's dental benefits are specifically covered under s. 409.906(6), F.S. and provided in more detail in the 2012-2013 Medicaid Summary of Services and the Medicaid Dental Services Coverage and Limitations Handbook.[3,4]

Florida Medicaid currently reimburses dental services provided to Medicaid recipients by a registered dental hygienist who is employed by or in a contractual agreement with a health access setting, as defined under s. 466.003(14), F.S., and is under the general supervision of a dentist as defined under s. 466.003(10), F.S.[5,6] The Medicaid-enrolled supervising dentist at the facility where the registered dental hygienist is employed or is in contractual agreement with is listed as the treating provider for these services.[7]

Chapter 466, F.S., addresses the practice of dentistry and dental hygiene. Specifically, s. 466.024(2), F.S., identifies the specific services that dental hygienists are permitted to perform, including dental cleanings and applications of topical fluoride and sealants, in health access settings without the physical presence of, prior examination by, or prior authorization of a dentist. Rules under Chapter 64B5-16, F.A.C., provide additional guidance as to the level of supervision required for dental hygienists and the tasks that may be delegated or performed by these personnel.

The expanded scope of practice legislation was passed in 2011, which permitted licensed dental hygienists to perform certain functions without the physical presence, prior examination or authorization of a dentist, in health access settings.[8] However, while the scope of services that could be performed without supervision was expanded for dental hygienists, the legislation did not specifically address whether the health access setting could bill Medicaid for the services provided when the services were not performed under the general supervision of a dentist.

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[3] Agency for Health Care Administration, *Florida Medicaid Summary of Services, Fiscal Year 2012-2013* http://ahca.myflorida.com/Medicaid/pdffiles/2012-2013_Summary_of_Services_Final_121031.pdf (last viewed April 11, 2013).

[4] Agency for Health Care Administration, *Florida Medicaid Dental Services Coverage and Limitations Handbook (November 2011)http://portal.flmmis.com/FLPublic/Portals/0/StaticContent/Public/HANDBOOKS/Dental_Services_November_2011_Final_Handbook.pdf* (last viewed April 11, 2013).

[5] A health access setting is defined under the statute as a program or an institution of the Department of Children and Family Services, the Department of Health, the Department of Juvenile Justice, a nonprofit community health center, a Head Start center, a federally qualified health center or look-alike as defined by federal law, a school-based prevention program, a clinic operated by an accredited college of dentistry, or an accredited dental hygiene program in this state if such community service program or institution immediately reports to the Board of Dentistry all violations of s. 466.027, s. 466.028, or other practice act or standard of care violations related to the actions or inactions of a dentist, dental hygienist, or dental assistant engaged in the delivery of dental care in such setting.

[6] "General Supervision" means a dentist authorizes the procedures that are being carried out but is not required to be present when those authorized procedures are being performed under the statutory definition.

[7] Agency for Health Care Administration, *House Bill 313/Senate Bill 488 Bill Analysis and Economic Impact Statement*, p.1, (Feb. 19, 2013) (on file with the Senate Health Policy Committee).

[8] *See* Chapter Law 2011-95, ss. 4-8, Laws of Florida and s. 466.024(2), F.S.

III. Effect of Proposed Changes:

Section 1 amends subsection (6) of s. 409.906, F.S., to authorize the AHCA to reimburse a health access setting, as defined in s. 466.003, F.S., that operates as a Medicaid provider for dental services authorized under an appropriate statutory delegation of duties to a licensed dental hygienist and that have been provided to a Medicaid recipient under the age of 21.

Section 2 provides an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Some health access settings may benefit from the additional revenue resource from providing newly reimbursable services. These health access settings may also be able to deliver current services in a more cost efficient manner through the expanded use of dental hygienists.

C. Government Sector Impact:

The Department of Health reports that there would be a fiscal impact on the county health departments but the actual calculation of costs and benefits cannot be determined from currently available data and resources.[9] The department indicates that SB 488 would allow local county health departments to bill for dental hygienists services for children under the age of 21. Local county health departments could increase the number of

[9] Department of Health, *SB 488 Bill Analysis*, p.4, (on file with the Senate Health Policy Committee).

preventive services by hiring more dental hygienists and utilize the expertise of dentists more cost effectively for those services which may only be provided by a dentist.[10] The department indicates that a dental hygienist's salary is approximately one-half the cost of a dentist's salary.[11]

The AHCA indicates SB 488 has no fiscal impact as proposed and a small, but indeterminate negative fiscal impact, with a clarifying amendment.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The AHCA believes that a statutory conflict still exists that would restrict Medicaid reimbursement to only those services provided by or under the supervision of a dentist.[12] An amendment is suggested to clarify eligibility for Medicaid reimbursement for dental hygienist services both authorized under and rendered in accordance with the provisions of s. 466.024(2), F.S.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

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

[10] Id.
[11] Id.
[12] Agency for Health Care Administration, s*upra*, note 6 at 2.

101366

LEGISLATIVE ACTION

Senate	.	House
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The Committee on Health Policy (Flores) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete everything after the enacting clause
4 and insert:
5 Section 1. Encounter fee reimbursment.—
6 (1) It is the intent of the Legislature that state funds
7 used to pay for health care services be allocated in a
8 responsible and reasonable manner that maximizes the
9 availability of and access to services provided in public health
10 facilities. Reportedly, patients often receive piecemeal
11 services in county health departments on a per visit encounter
12 fee reimbursement basis, and, after the first visit, are told

101366

13 that they will have to make multiple appointments for additional
14 services that could be rendered in one visit, thus maximizing
15 the amount of encounter fees paid to the health department.
16 State-funded encounter fee reimbursement can range from $100 to
17 $180 per visit. It is often more cost-effective and less
18 intrusive for a patient to receive all treatment needed in one
19 visit. The Legislature finds that, before authority is granted
20 that reinforces the encounter reimbursement system, additional
21 information is needed to determine the validity of and extent of
22 abuse in this reimbursement method and develop an equitable
23 solution to addressing the problem, if it is determined that a
24 problem exists.
25 (2) The Agency for Health Care Administration, in
26 consultation with the Department of Health, shall conduct a
27 study of the efficacy of the encounter fee reimbursement method
28 used in the county health departments for dental services. The
29 study must examine encounter fee reimbursements for dental
30 services provided in county health departments for the past 3
31 fiscal years and include an analysis of the type, frequency, and
32 scheduling of specified dental services provided during the
33 specified timeframe and the amount of funds reimbursed to each
34 county health department for these services. The study, which
35 shall be presented to the President of the Senate and the
36 Speaker of the House of Representatives by January 1, 2016, must
37 include findings and a recommendation that provides a list of
38 specific alternative reimbursement methods to be considered in
39 lieu of the encounter fee reimbursement method.
40 Section 2. This act shall take effect upon becoming a law.
41

101366

42 ========== T I T L E A M E N D M E N T ==========
43 And the title is amended as follows:
44 Delete everything before the enacting clause
45 and insert:
46 A bill to be entitled
47 An act relating to encounter reimbursement fees;
48 providing legislative findings relating to the payment
49 of encounter reimbursement fees in county health
50 departments; requiring the Agency for Health Care
51 Administration, in consultation with the Department of
52 Health, to conduct a study of the encounter
53 reimbursement method for the payment of dental
54 services and to provide findings and recommendations
55 to the Legislature by a certain date; providing an
56 effective date.

410260

LEGISLATIVE ACTION

Senate	.	House
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The Committee on Health Policy (Garcia) recommended the following:

Senate Amendment to Amendment (101366) (with title amendment)

Between lines 39 and 40
insert:
Section 2. Section 381.4019, Florida Statutes, is created to read:
381.4019 Dental Student Loan Repayment Program.—Subject to the availability of funds, the Legislature hereby establishes the Dental Student Loan Repayment Program in order to encourage qualified dental practitioners to practice in medically underserved areas or public health programs in the state where

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13 there are shortages of such practitioners.
14 (1) As used in this section, the term:
15 (a) “Department” means the Department of Health.
16 (b) “Medically underserved area” means a geographic area,
17 special population, or a facility as designated by department
18 rules which has a shortage of dental health professionals as
19 defined by federal regulations who serve Medicaid and other low-
20 income patients.
21 (c) “Loan program” means the Dental Student Loan Repayment
22 Program.
23 (d) “Public health program” means a county health
24 department, a children’s medical services program, a federally
25 funded community health center, a federally funded migrant
26 health center, or other publicly funded or nonprofit health care
27 program designated by the department.
28 (2) The loan program shall be developed by the department
29 in cooperation with the University of Florida College of
30 Dentistry, the Nova Southeastern University College of Dental
31 Medicine, the Lake Erie College of Osteopathic Medicine School
32 of Dental Medicine, and the Florida Dental Association.
33 (3) The department shall award funds for repaying the
34 student loans of state-licensed dentists who commit to practice
35 in a medically underserved area or in a public health program to
36 serve Medicaid recipients and other low-income patients in this
37 state.
38 (4) A participant in the loan program may receive funds for
39 at least 1 year, up to a maximum of 4 years. The period of
40 obligated service begins when the dentist is employed in the
41 medically underserved area or by a public health program.

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42 (5) Failure to comply with the participation requirements
43 of the loan program shall result in ineligibility for license
44 renewal under chapter 466. For a dentist who is unable to
45 participate for reasons of disability, the penalty is the actual
46 amount of financial assistance provided to the dentist.
47 Financial penalties shall be deposited in the loan program and
48 used to provide additional funding for program participants.
49 (6) The department shall adopt rules to administer the loan
50 program. The rules must quantify the amount of funds each
51 dentist shall receive per year of participation in the loan
52 program.
53
54 ========== T I T L E A M E N D M E N T ==========
55 And the title is amended as follows:
56 Delete line 55
57 and insert:
58 to the Legislature by a certain date; creating s.
59 381.4019, F.S.; establishing the Dental Student Loan
60 Repayment Program in order to encourage dentists to
61 work in underserved areas or public health programs;
62 providing definitions; requiring the Department of
63 Health, certain universities, and the Florida Dental
64 Association to develop the program; providing for the
65 award of funds; providing the maximum number of years
66 funds may be awarded to a dentist; providing sanctions
67 for failure to comply with loan requirements;
68 authorizing the department to adopt rules; providing
69 an

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LEGISLATIVE ACTION

Senate	.	House
	.	
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The Committee on Health Policy (Braynon) recommended the following:

1 **Senate Amendment**
2
3 Delete line 44
4 and insert:
5 a Medicaid provider for dental services authorized under and
6 rendered in accordance with s.

By Senator Braynon

36-00966-13 2013488__

A bill to be entitled

An act relating to Medicaid dental services; amending s. 409.906, F.S.; authorizing the Agency for Health Care Administration to reimburse a health access setting operating as a Medicaid provider for dental services under certain conditions; providing an effective date.

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

Section 1. Subsection (6) of section 409.906, Florida Statutes, is amended to read:

409.906 Optional Medicaid services.—Subject to specific appropriations, the agency may make payments for services which are optional to the state under Title XIX of the Social Security Act and are furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were provided. Any optional service that is provided shall be provided only when medically necessary and in accordance with state and federal law. Optional services rendered by providers in mobile units to Medicaid recipients may be restricted or prohibited by the agency. Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. If necessary to safeguard the state's systems of providing services to elderly and disabled persons and subject

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

30 to the notice and review provisions of s. 216.177, the Governor
31 may direct the Agency for Health Care Administration to amend
32 the Medicaid state plan to delete the optional Medicaid service
33 known as "Intermediate Care Facilities for the Developmentally
34 Disabled." Optional services may include:
35 (6) CHILDREN'S DENTAL SERVICES.—The agency may pay for
36 diagnostic, preventive, or corrective procedures, including
37 orthodontia in severe cases, provided to a recipient under age
38 21, by or under the supervision of a licensed dentist. Services
39 provided under this program include treatment of the teeth and
40 associated structures of the oral cavity, as well as treatment
41 of disease, injury, or impairment that may affect the oral or
42 general health of the individual. The agency may reimburse a
43 health access setting as defined in s. 466.003 that operates as
44 a Medicaid provider for dental services authorized under s.
45 466.024(2) and provided to a recipient younger than 21 years of
46 age by a licensed dental hygienist. However, Medicaid will not
47 provide reimbursement for dental services provided in a mobile
48 dental unit, except for a mobile dental unit:
49 (a) Owned by, operated by, or having a contractual
50 agreement with the Department of Health and complying with
51 Medicaid's county health department clinic services program
52 specifications as a county health department clinic services
53 provider.
54 (b) Owned by, operated by, or having a contractual
55 arrangement with a federally qualified health center and
56 complying with Medicaid's federally qualified health center
57 specifications as a federally qualified health center provider.
58 (c) Rendering dental services to Medicaid recipients, 21

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

59 years of age and older, at nursing facilities.
60 (d) Owned by, operated by, or having a contractual
61 agreement with a state-approved dental educational institution.
62 Section 2. This act shall take effect July 1, 2013.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

CourtSmart Tag Report

Room: KN 412 **Case:** **Type:**
Caption: Health Policy Committee **Judge:**

Started: 4/16/2013 1:33:31 PM
Ends: 4/16/2013 3:47:39 PM **Length:** 02:14:09

1:33:35 PM	Meeting called to order by Chair Bean
1:34:20 PM	Roll Call
1:35:47 PM	Confirmation Hearing - Dr. John H. Armstrong
1:40:09 PM	Senator Joyner
1:41:10 PM	Dr. Armstrong response
1:42:07 PM	Senator Joyner follow-up
1:43:08 PM	Dr. Armstrong response
1:44:01 PM	Senator Joyner
1:44:52 PM	Dr. Armstong response
1:45:09 PM	Chair Bean question
1:46:08 PM	Dr. Armstrong response
1:46:28 PM	Senator Joyner
1:47:21 PM	Dr. Armstrong response
1:47:46 PM	Senator Joyner
1:48:46 PM	Dr. Armstrong response
1:49:46 PM	Senator Sobel question
1:50:32 PM	Dr. Armstrong response
1:51:03 PM	Senator Joyner question
1:51:59 PM	Dr. Armstrong response
1:52:29 PM	Senator Joyner question
1:53:29 PM	Dr. Armstrong response
1:54:26 PM	Senator Joyner question
1:55:00 PM	Dr. Armstrong response
1:55:30 PM	Senator Joyner remarks
1:56:30 PM	Dr. Armstrong response
1:57:18 PM	Chris Nuland and Dr. Karan Gill
1:58:18 PM	Chris Nuland, FL. Chapter of American College of Surgeons, remarks
1:58:40 PM	Dr. Karan Gill, Chairman Florida Committee on Trauma, remarks
1:59:22 PM	Chair Bean remarks
2:00:20 PM	Senator Garcia question
2:00:39 PM	Dr. Armstrong response
2:01:13 PM	Senator Sobel question
2:02:13 PM	Dr. Armstrong response
2:02:38 PM	Senator Joyner question
2:02:58 PM	Dr. Armstrong response
2:03:40 PM	Senator Joyner question
2:03:51 PM	Dr. Armstrong response
2:04:07 PM	Senator Joyner question
2:04:45 PM	Dr. Armstrong response
2:04:58 PM	Motion to recommend confirmation as State Surgeon General
2:05:56 PM	Confirmation roll call
2:06:13 PM	SPB 7156 County Medicaid Contributions by Senator Grimsley
2:07:13 PM	Senator Braynon question
2:07:58 PM	Senator Grimsley's response
2:08:15 PM	Senator Braynon follow-up question
2:08:56 PM	Senator Grimsley's response
2:09:04 PM	Senator Braynon question
2:09:22 PM	Senator Grimsley's response
2:09:27 PM	Chair Bean remarks
2:10:08 PM	Senator Joyner question
2:11:09 PM	Senator Grimsley's response
2:11:27 PM	Senator Joyner follow-up question

2:12:28 PM	Senator Grimsley's response
2:12:48 PM	Senator Joyner remarks
2:13:38 PM	Senator Grimsley's response
2:14:38 PM	Chair Bean question
2:15:24 PM	Senator Grimsley's response
2:15:30 PM	Senator Sobel's question
2:15:41 PM	Senator Grimsley's response
2:15:57 PM	Senator Sobel's question
2:16:15 PM	Senator Grimsley's response
2:16:29 PM	Senator Sobel's continued remarks
2:16:47 PM	Senator Grimsley's response
2:16:48 PM	Senator Sobel's question
2:17:01 PM	Senator Grimsley's response
2:17:16 PM	Senator Sobel's continued remarks
2:17:25 PM	Senator Grimsley's response
2:17:35 PM	Public Testimony
2:17:57 PM	Warren Yeager, Commissioner Gulf County
2:19:16 PM	Barbara Sharief, Vice Mayor Broward County remarks
2:22:53 PM	Senator Grimsley remarks
2:23:53 PM	Fred Hawkins, Commissioner Osceola County remarks
2:25:30 PM	Brian Desloge, Leon County Commissioner, remarks
2:28:17 PM	Susan Harbin, Florida Association of Counties, remarks
2:30:25 PM	Chris Doolin, Small County Coalition, remarks
2:34:36 PM	Senator Brandes remarks
2:35:36 PM	Chris Doolin response
2:35:55 PM	Senator Joyner remarks
2:38:09 PM	Senator Sobel's remarks
2:39:09 PM	SPB 7156 roll call
2:40:06 PM	SM 1600, Health Insurance Tax, by Senator Bean
2:41:06 PM	Michael Garner, Florida Association of Health Plans, remarks
2:42:37 PM	Senator Braynon remarks
2:43:25 PM	Michael Garner response
2:43:42 PM	Senator Braynon continued remarks
2:44:41 PM	Michael Garner response
2:45:00 PM	Senator Sobel question
2:45:40 PM	Michael Garner response
2:45:48 PM	Senator Sobel's question
2:46:36 PM	Michael Garner response
2:46:43 PM	Senator Sobel remarks
2:46:57 PM	Joy M. Ryan, NAIFA - Florida and America's Health Insurance Plans, remarks
2:47:11 PM	Senator Braynon remarks
2:47:28 PM	Senator Joyner remarks
2:48:27 PM	SM1600 closing remarks by Senator Bean
2:49:28 PM	SM1600 roll call
2:50:01 PM	CS/SB 1384, Nursing Home Litigation by Senator Galvano
2:52:22 PM	Senator Joyner question
2:53:22 PM	Senator Galvano response
2:54:33 PM	Public Testimony
2:55:11 PM	David Hart, Florida Chapter of Commerce
2:56:31 PM	Galvano closing remarks on amendment
2:57:16 PM	Senator Joyner amendment to the amendment
2:57:46 PM	Senator Joyner amendment 498834
2:59:28 PM	John Simmons amendment 498834
2:59:58 PM	Laura Cantwell, AARP
3:00:34 PM	Tony Marshall, Florida Health Care Association, remarks amendment 498834
3:02:20 PM	Rochelle Salcedo, 1199 Service Employees International Union, amendment 498834
3:05:27 PM	Kevin Smaage, Director of Health Services, Alliance Center for Health Care, amendment 498834
3:06:57 PM	Matthew Posgay, Florida Justice Association, amendment 498834
3:08:54 PM	LuMarie Polinka-West, Senior Director of Policy, Florida Health Care Association, amendment 498834
3:09:56 PM	Senator Braynon remarks
3:10:16 PM	Senator Sobel's remarks
3:10:56 PM	Senator Galvano remarks

3:11:23 PM	Senator Joyner closing on the amendment 498834
3:14:58 PM	Roll call on amendment Joyner amendment
3:15:57 PM	Amendment by Senator Joyner (title amendment) withdrawn
3:16:56 PM	Continued public testimony
3:20:35 PM	Motion to vote at 3:28 by Senator Brandes
3:21:35 PM	public testimony continued
3:29:25 PM	Chair Bean remarks
3:29:58 PM	SB 1384 vote
3:30:35 PM	Meeting adjourned