

STORAGE NAME: h1633.lgva.doc

DATE: February 13, 2002

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
LOCAL GOVERNMENT & VETERANS AFFAIRS
ANALYSIS**

BILL #: HB 1633

RELATING TO: Unclaimed Bodies/Veterans

SPONSOR(S): Representative Evers

TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC)
 - (2) COUCNCIL FOR SMARTER GOVERNMENT
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

This bill requires that a reasonable effort be made to determine if a deceased person is a veteran of the Armed Forces of the United States. So that arrangements can be made for proper burial services. "Reasonable effort" is described to include determining the identity of the body and contacting any relatives of such a deceased person.

The bill requires that any contract for disposal of unclaimed bodies or human remains by a local governmental entity provide for compliance with certain state and federal procedures relating to the unclaimed human remains of a veteran.

The bill appears to have no direct fiscal impact on state or local government.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Section 245.06, F.S., relates to unclaimed dead bodies; the disposition of dead bodies and, procedures related to disposition. All public officers, agents or employees of every county, city, village, town or municipality and every person in charge of any prison, morgue, hospital, funeral parlor or mortuary and all other persons coming into possession, charge or control of any dead human body which is unclaimed or which is required to be buried or cremated at public expense are hereby required to notify, immediately, the anatomical board, whenever any such body or bodies come into its possession, charge or control. Notification of the anatomical board is not required if the death was caused by crushing injury, the deceased had a contagious disease, an autopsy was required to determine cause of death, the body was in a state of severe decomposition, or a family member objects to use of the body for medical education and research. The person or entity in charge or control of the dead body must make a reasonable effort to determine the identity of the body. A reasonable effort must be made to contact any relatives of such a deceased person. Such dead human bodies as described in chapter 245, F.S., must be delivered to the anatomical board as soon as possible after death. A medical examiner may hold a dead body for the purpose of investigating the cause of death. A court of competent jurisdiction may enter an order affecting the disposition of such body. For purposes of chapter 245, F.S., the term "anatomical board" means the anatomical board of the state of Florida located at the University of Florida Health Science Center.

Section 245.07, F.S., relates to the retention of bodies before use; unfit or excess number of bodies, and disposition procedures. All bodies received by the anatomical board must be retained in receiving vaults for a period of not less than 48 hours before allowing their use for medical science. If at any time more bodies are made available to the anatomical board than can be used for medical science under its jurisdiction, or if a body is deemed by the anatomical board to be unfit for anatomical purposes, the anatomical board may notify, in writing, the county commissioners or other legally authorized person, as defined in section 470.002 F.S., in the county where such person died, to cause it to be buried or cremated in accordance with the rules, laws and practices for disposing of such unclaimed bodies. However, prior to having any body buried or cremated, the county must make a reasonable effort to determine the identity of the body and make a reasonable effort to contact any relatives of the deceased person. If a relative of the deceased person is contacted and expresses a preference for either burial or cremation, the county must make a reasonable effort to accommodate the request of the relative. For purposes of this section, the county commissioners of the county where such person died is considered a legally authorized person as defined in section 470.002 F.S. A person licensed under chapter 470, F.S., or chapter 497 F.S., is not liable for any damages resulting from cremating or burying such body at the direction of the county's legally authorized person.

Section 245.08, F.S., relates to the death of indigents; notice; delivery to the anatomical board when unclaimed; exceptions; and assessment of fees.

(1) Notice of death to the anatomical board in cases of indigent persons is not required if:

(a) Death was caused by crushing injury.

(b) The deceased had a contagious disease.

(c) An autopsy was required to determine the cause of death.

(d) The body was in a state of severe decomposition.

(e) Any relative, by blood or marriage, claims the body for burial at the expense of such relative, the body shall be surrendered to the claimant for interment.

(f) Any friend or any representative of a fraternal society of which the deceased was a member, or a representative of any charitable or religious organization, or a governmental agency which was providing residential care to the indigent person at the time of his or her death claims the body for burial at his or her, its, or their expense.

(g) The deceased person was an honorably discharged member of the Armed Forces of the United States or the state who served during a period of wartime service as defined in section 1.01(14) F.S.; but such body shall be buried in accordance with the provisions of the existing laws.

(2) When the Department of Health claims the body of a client according to this section, the department shall assess fees for burial pursuant to section 402.33, F.S.

Section 245.09, F.S., relates to the bodies that may be claimed after delivery to the anatomical board. Any dead human body which has been delivered to the anatomical board may be claimed by any friend or any representative of a fraternal society of which the deceased was a member, or a representative of any charitable or religious organization. Upon receipt of such claim, the body or remains shall be surrendered to the claimant by the anatomical board after the payment to the anatomical board for the expenses incurred in obtaining and handling such body or remains.

Section 245.15, F.S., relates to disposition of bodies after use. At any time when any body or bodies or part or parts of any body or bodies, as described in this chapter, shall have been used and deemed of no further value to medical or dental science, then the person or persons having charge of said body or parts of said body may dispose of the remains by cremation.

C. EFFECT OF PROPOSED CHANGES:

The bill is amended to add 'human remains' to section 245.06, F.S., relating to the unclaimed dead bodies disposition, procedure provision.

The bill requires that a reasonable effort be made to determine if the deceased person is a veteran of the Armed Forces of the United States and, if so, that arrangements be made for proper burial services. The bill provides that "reasonable effort" include determining the identity of the body and contacting any relatives of such a deceased person.

The bill requires any contract for disposal of unclaimed bodies or human remains by a local governmental entity provide for compliance with certain state and federal procedures relating to the unclaimed human remains of a veteran.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Section 1 of s. 245.06, F.S., is amended to add 'human remains' to the unclaimed dead bodies disposition, procedure provision. A new subsection (b) is added to section 245.06(1), F.S., to provide the person or entity in charge or control of the dead body or human remains make a reasonable effort to determine whether or not the deceased person is entitled to burial in a national cemetery as a veteran of the armed forces and, if so, make arrangements for such burial services in accordance with the provisions of 38 C.F.R. For purposes of this subsection "a reasonable effort" includes contacting the county veterans service office or regional office of the United States Department of Veterans Affairs.

Section 2. A new section 2 is added to section 245.06, F.S., to provide any contract by a local governmental entity for the disposal of unclaimed human remains must provide for compliance with s. 245.06(1), F.S., and require that the procedures in 38 C.F.R., relating to disposition of unclaimed deceased veterans, be followed.

Section 3. Provides an effective date of upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenue in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the percentage of a state tax shared with counties and municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

A representative of the State Veterans Planning Group commented that some counties are unaware of the federal requirements provided in 38 C.F.R. regarding veterans' remains. Unless otherwise provided for, oftentimes, the remains of veterans end up on pauper's hill.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

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