

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | 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. EFFECT OF PROPOSED CHANGES:

Part IV of chapter 553, Florida Statutes, sets forth the requirements for the Florida Building Code. The intent of the Legislature in providing for the Florida Building Code was to create a “mechanism for the uniform adoption, updating, amendment, interpretation, and enforcement of a single, unified state building code.”¹

The Florida Building Commission is required to adopt the Florida Building Code:

which shall contain or incorporate by reference all laws and rules which pertain to and govern the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and enforcement of such laws and rules, except as otherwise provided in this section.²

Certain provisions or requirements must be part of the Florida Building Code:

public and private buildings, structures, and facilities relative to structural, mechanical, electrical, plumbing, energy, and gas systems, existing buildings, historical buildings, manufactured buildings, elevators, coastal construction, lodging facilities, food sales and food service facilities, health care facilities, including assisted living facilities, adult day care facilities, and facilities for the control of radiation hazards, public or private educational facilities, swimming pools, and correctional facilities and enforcement of and compliance with such provisions or requirements.³

This bill adds “hospice residential facilities and inpatient facilities and units” to the provisions and requirements that the Florida Building Code must contain.

Adding “hospice residential facilities and inpatient facilities and units” to the provisions and requirements of the Florida Building Code requires conforming changes in Part VI of chapter 400, Florida Statutes, which provides for “the development, establishment, and enforcement of basic standards to ensure the safe and adequate care of persons receiving hospice services”⁴

Currently, hospices are licensed by the Agency for Health Care Administration.⁵ The Department of Elderly Affairs is required, in consultation with the Agency for Health Care Administration, to establish,

¹ See Fla. Stat. §553.72(1) (2003).

² See Fla. Stat. §553.73(1) (2003).

³ See Fla. Stat. §553.73(2) (2003).

⁴ See Fla. Stat. §400.6005 (2003).

⁵ See Fla. Stat. §400.602(1) (2003). See also Fla. Stat. §400.606(5) (2003) (prohibiting a license from being issued to a hospice that fails to receive a certificate of need).

by rule, minimum standards and procedures for a hospice.⁶ One of these rules must address “the physical plant standards for hospice residential and inpatient facilities.”⁷ This requirement is removed and a new subsection is created which provides that the construction and the renovation of hospice residential or inpatient facilities or units must comply with the provisions of chapter 553, Florida Statutes, which includes building construction standards and the Florida Building Code.

The bill requires the Agency for Health Care Administration to provide technical assistance to the Florida Building Commission in updating the construction standards of the Florida Building Code relative to hospice facilities.

C. SECTION DIRECTORY:

Section 1: Amends subsection (2) of section 553.73, F.S., to provisions or requirements related to residential and inpatient hospice facilities to the Florida Building Code.

Section 2: Amends subsection (3) of section 400.601, F.S., to refine the definition of non-profit hospice to include that it is exempt from federal taxation under s. 501(c)(3) of the Internal Revenue Code.

Section 3: Removes paragraph (i) from section 400.065, F.S., removing the requirement that DOEA establish physical plant standards for hospices.

Section 4: Creates section 400.6055, F.S., and requires that construction and renovation of hospice residential or inpatient facilities comply with chapter 553, F.S, the Florida Building Code.

Section 5: Provides that the act takes effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

There are no known or expected fiscal impacts on state government revenues.

2. Expenditures:

There may be an impact on state government expenditures as the Florida Building Commission includes “hospice residential facilities and inpatient facilities and units” in the Florida Building Code, but the nature and degree of that impact is unknown.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

There are no known or expected fiscal impacts on local government revenues.

2. Expenditures:

There are no known or expected fiscal impacts on local government expenditures.

⁶ See Fla. Stat. §400.605(1) (2003).

⁷ See Fla. Stat. §400.605(1)(i) (2003). See also Fla. Admin. Code Ann. r. 58A-2.025 (2003) (setting forth the physical plant requirements for hospice inpatient facilities and units) and Fla. Admin. Code Ann. r. 58A-2.0236 (2003) (requiring new facilities and additions and renovations to existing hospice residential facilities to be in compliance with the Florida Building Code).

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

A direct economic impact on the private sector from adding “hospice residential facilities and inpatient facilities and units” to the Florida Building Code is expected, but the nature and degree of that impact is unknown.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take action requiring the expenditure of funds, does not appear to reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

There do not appear to be any other constitutional issues with this bill.

B. RULE-MAKING AUTHORITY:

By requiring the Florida Building Code to contain provisions or requirements for “hospice residential facilities and inpatient facilities and units,” the Florida Building Commission will be required to adopt such provisions pursuant to chapters 120 and 553, Florida Statutes.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issue – Adoption

Including “hospice residential facilities and inpatient facilities and units” in the Florida Building Code is not likely to be a “technical amendment.”⁸ As such, it may have to be included in the Florida Building Code as part of the update which occurs every three years. Since the 2004 edition of the Florida Building Code is going to preliminary stages of publication and is anticipated to take effect on January 1, 2005, the hospice facility standards may not be adopted and included in the Florida Building Code until the next three-year update in 2006-2007.⁹ The sponsor may wish to amend the bill to expedite adoption of these provisions in the Florida Building Code:

Amendment, at line 92, insert: The Florida Building Commission shall expedite the adoption and inclusion of hospice residential and inpatient facilities and units as part of the Florida Building Code pursuant only to the provisions of chapter 120, Florida Statutes. The special update and amendment requirements of section 553.73, Florida Statutes, and the administrative rule requiring additional delay time between adoption and implementation of such code are waived.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

⁸ See Fla. Stat. 553.73(3) (2003).

⁹ See e-mail from Jim Richmond, General Counsel for the Florida Building Commission (Mar. 4, 2004, 17:24 EST) (on file with the Committee on Local Government & Veterans’ Affairs).

Conforming Amendments

On March 3, 2004, the Senate Committee on Health, Aging, and Long-Term Care favorably reported SB 1344, the companion to HB 1109, as a committee substitute after adopting three amendments. Two of the amendments change the references to “hospice residential facilities” and “hospice inpatient facilities” to “hospice residential and inpatient facilities and units.” The third amendment requires the Agency for Health Care Administration to provide technical assistance to the Florida Building Commission in updating the construction standards of the Florida Building Code relative to hospice facilities.

On March 10, 2004, the Committee on Local Government & Veterans’ Affairs adopted these conforming amendments without objection:

Amendment, remove lines 23-24 and inserts: facilities, adult day care facilities, hospice residential and inpatient facilities and units, and facilities

Amendment, at line 87, remove said line and insert: hospice residential or inpatient facility or units must

Amendment, at line 91, remove said line and insert: handicapped persons, and the state minimum building codes. The Agency for Health Care Administration shall provide technical assistance to the Florida Building Commission in updating the construction standards of the Florida Building Code relative to hospice facilities.

The bill, as amended, was favorably reported as a committee substitute.

The bill was amended by the Committee on the Future of Florida’s Families to insert in the definition of hospice that it must be exempt from federal taxation under 501(c)(3) of the Internal Revenue Code of 1986, as amended.