

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1109 Hospice Facilities/Florida Building Code
SPONSOR(S): McInvale
TIED BILLS: **IDEN./SIM. BILLS:** HB 1344

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Local Government & Veterans' Affairs</u>	_____	<u>Mitchell</u>	<u>Cutchins</u>
2) <u>The Future of Florida's Families</u>	_____	_____	_____
3) <u>Health Appropriations</u>	_____	_____	_____
4) <u>Appropriations</u>	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

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

The bill removes the requirement that the Department of Elderly Affairs establish minimum standards and procedures for "the physical plant standards for hospice residential and inpatient facilities."

The bill creates a new subsection which provides that the construction and renovation of a hospice inpatient facility or unit, or a hospice residence, must comply with the building construction standards, the Florida Building Code, and the other applicable provisions of chapter 553, Florida Statutes.

This bill takes effect July 1, 2004.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1109.lgv.doc
DATE: March 4, 2004

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” to the provisions and requirements that the Florida Building Code must contain.

Adding “hospice residential facilities” and “inpatient facilities” 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 created which provides that the construction and the renovation of a hospice inpatient facility or unit or a hospice residence must comply with the provisions of chapter 553, Florida Statutes, which includes building construction standards and the Florida Building Code.

C. SECTION DIRECTORY:

Section 1: Amends subsection (2) of section 553.73, Florida Statutes, to expand the provisions or requirements of the Florida Building Code.

Section 2: Removes paragraph (i) from section 400.065, Florida Statutes.

Section 3: Creates section 400.0065, Florida Statutes, to provide construction and renovation requirements for hospices.

Section 4: 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 are no known or expected fiscal impacts on state government expenditures.

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.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

A direct economic impact on the private sector from adding “hospice residential facilities” and “inpatient facilities” 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:

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).

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 “hospice inpatient facilities,” 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 “hospice inpatient facilities” 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.

Drafting Issue – 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. Accordingly, the sponsor of the bill may wish to adopt conforming amendments:

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

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).

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.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.