

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Health Care Committee

BILL: CS/CS/CS/SB 1058

INTRODUCER: Health Care Committee, Community Affairs Committee, Domestic Security Committee,
Senators Diaz de la Portilla and Wise

SUBJECT: Emergency Management

DATE: March 23, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pardue	Skelton	DS	Fav/CS
2.	Herrin	Yeatman	CA	Fav/CS
3.	Bedford	Wilson	HE	Fav/CS
4.			TA	
5.				
6.				

I. Summary:

This bill amends various sections of the Florida Statutes with respect to the planning and operation of special needs emergency shelters in the state. The bill addresses emergency planning and management to enhance the safety and well-being of persons with special needs before, during, and after a disaster. The bill assigns lead responsibility regarding special needs shelter maintenance and operation to certain state agencies, establishes the multiagency special needs shelter discharge planning team and encourages coordination of emergency services among national, state and local agencies and volunteer organizations. Specifically, the bill:

- Assigns lead agency education and outreach responsibilities to the Department of Community Affairs;
- Expands special needs registration efforts;
- Ensures nursing homes in a disaster area receive initial contact from the Agency for Health Care Administration;
- Requires the Division of Emergency Management to prepare a biennial shelter plan that estimates future needs for special needs shelters;
- Amplifies the Department of Health's role in establishing a more coordinated comprehensive emergency plan review of certain facilities and providers;
- Revises the membership and role of the Special Needs Shelter Interagency Committee;
- Provides for procedures to address the needs of families of special needs shelter residents;
- Describes client abandonment during a disaster;

- Provides for county health department procedures regarding the review of the comprehensive emergency plans of certain health care providers, including notification of plan approval or deficiency;
- Authorizes the Agency for Health Care Administration to impose a fine under certain circumstances.
- Authorizes certain entities regulated or licensed by the Agency for Health Care Administration to exceed their licensed capacity during an evacuation situation;
- Provides for an inactive license status when a licensee is unable to operate due to damage; and
- Provides for notification of clients affected by a grant of inactive status.

This bill substantially amends the following sections of the Florida Statutes: 252.355, 252.385, 381.0303, 400.492, 400.497, 400.506, 400.610, 400.925, 400.934, 400.935, and 408.831.

This bill creates sections 252.3568 and 252.357, Florida Statutes.

II. Present Situation:

Florida's Recent Experiences Responding to Natural Disasters

Florida's geographical location makes this state vulnerable to a variety of natural disasters. Various state agencies coordinate with local and federal governments, interstate organizations, and the private sector to prepare residents and visitors before disasters to help protect them during such events and assist with recovery afterward.

The 2004 and 2005 hurricane seasons placed extreme demands on the state's ability to respond to natural disasters. Post season analysis of the state's Special Needs Shelter (SpNS) operations highlighted issues of concern such as organizational deficiencies, damage to shelter structures, power outages, demographic based changes in demand for SpNSs, and the stress on patients, caregivers, and emergency managers. Special needs shelters provide refuge to persons who because of a health or medical condition require the supervision of a health care professional during a disaster or emergency. These shelters operate and coordinate services with state, local agency and volunteer organizations.

The Governor issued Executive Order Number 04-192 on September 1, 2004, authorizing the Department of Health (department) to assume responsibility for operations of SpNSs if specifically requested by any county Director of Emergency Management. This order, incorporated in subsequent hurricane executive orders, was prompted by, "[T]he recognition that the system was overwhelmed and that the department was in the best position, under the circumstances, to assume expedient responsibility for special needs shelter operations . . ."¹

The Department of Health, in its *2004 Hurricane Season AFTER ACTION REPORT* documents that changing demographics have resulted in increasing numbers of elderly and disabled individuals receiving in-home services. The report states, "[D]uring these storms, Florida, with its high proportion of elderly, experienced the effects of these combinations of factors like never

¹ Florida Department of Health, *2004 Hurricane Season AFTER ACTION REPORT*, March 4, 2005, page E2.

before. Individuals, who functioned well in their homes during normal times, many with support services from home health care agencies, were unable to maintain that level of functionality during and after the storms. Storm-related disruptions to communications, transportation, power supplies, and lack of continuity of in-home support services as well as structural damage to their homes, forced many seniors out of their independent living status and into SpNSs, at least temporarily. In some areas, those who had not evacuated prior to the storm found they could not safely remain in their homes after the storm due to these disruptions resulting in a ‘second wave’ of evacuees entering SpNSs.”²

The department’s report highlights a number of issues and lessons learned including:

- Some SpNSs were used with structural integrity ratings below the strength of the hurricane category faced while other SpNSs sustained damage at wind speeds below their maximum rating.
- County health departments were not always involved with other government entities in the selection of SpNSs.
- Many eligible persons were not aware of the Special Needs Registry and many of those registered did not actually choose to shelter in a SpNS.
- Many eligible persons asked to be added to the registry just prior to storm landfall and many registry lists were not updated.
- Many of the operational and shelter management issues that arose had been previously addressed in published documents yet some staff persons were not aware of the available resources highlighting a need for improved training.
- Better asset assignment was needed, including staff with current specialty skill sets and specialized equipment such as heavy patient lift devices or able-bodied staff, respiratory therapists, oxygen concentrators and other medical support equipment.
- A broad range of communications devices were needed, including cell phones, satellite phones, 800-megahertz radios. These devices should be identified ahead of time and assigned to SpNSs.
- Stressful shelter conditions such as lack of air conditioning and marginal food and water supplies led to rapid negative health impact on patients highlighting the need for discharge planning.
- As some shelters were damaged or destroyed by previous storms, back-up alternatives such as regional SpNSs were suggested at the same time highlighting the potential to overwhelm adjacent county medical resources.

During the 2005 hurricane season, additional analysis revealed that physically impaired individuals who decided to shelter at home in multi-story buildings became “trapped” when elevators were rendered inoperable due to power outages. These individuals represent a substantial group that may also seek SpNS services in the future.

² Id., pages E2-E3.

Florida Statutory Provisions Relating to Special Needs Shelters

Part I of chapter 252, F.S., is the “State Emergency Management Act.” Under s. 252.35, F.S., the Division of Emergency Management in the Department of Community Affairs is responsible for maintaining a comprehensive statewide program of emergency management and for coordinating with efforts of the Federal Government, other departments and agencies of state government, county and municipal governments and school boards, and private agencies that have a role in emergency management. Included is a provision to set forth policy guidance for public shelters, including sheltering people with special needs.³

Section 252.355, F.S., requires each local emergency management agency to maintain a registry of persons with special needs located within the jurisdiction of the local agency. This section requires specified state agencies and other entities to assist the local emergency management agencies in identifying persons to be included in the registry by having the agencies provide to and collect registration information from all of their special needs clients. The section also requires electric utilities to annually notify residential customers of the registration program. Section 252.385, F.S., requires the Division of Emergency Management to provide for public shelter space.

Section 381.0303, F.S., designates the Department of Health, through its county health departments, as the lead agency for coordination of the recruitment of health care practitioners to staff special needs shelters in times of emergency or disaster. This section requires the Department of Health to reimburse, subject to the availability of funds for this purpose, health care practitioners for medical care provided at the request of the department in special needs shelters.

The following facilities and programs regulated by the Agency for Health Care Administration are required to have an updated and approved Comprehensive Emergency Management Plan.

- Adult Day Care Centers (s. 400.562(1)(g), F.S.)
- Ambulatory Surgical Centers (s. 395.1055(1)(c), F.S.)
- Assisted Living Facilities (s. 400.441(1)(b), F.S.)
- Home Health Agencies (s. 400.492, F.S.)
- Hospices (s. 400.610(1)(b), F.S.)
- Hospitals (s. 395.1055(1)(c), F.S.)
- Nursing Homes (s. 400.23(2)(g), F.S.)

The minimum criteria for the Comprehensive Emergency Management Plans are included in the rules adopted by the Agency for Health Care Administration. At a minimum, the rules must provide for plan components that address emergency evacuation transportation; adequate sheltering; post disaster activities, including emergency power, food, and water; post disaster transportation; supplies; staffing; emergency equipment; individual identification of residents and transfer of records; and responding to family inquiries.

³ S. 252.35(2)(a)2., F.S.

III. Effect of Proposed Changes:

Section 1. Amends s. 252.355, F.S., relating to the registry of persons with special needs, to add persons with cognitive impairments to the list of persons with special needs and hospices, nurse registries, home medical equipment providers, the Department of Education, and the Agency for Persons with Disabilities, to the list of entities responsible for providing registration information about SpNSs to all people with disabilities or special needs clients who receive services. The bill deletes a reference to the Department of Labor and Employment Security, which no longer exists.

The Department of Community Affairs is designated as the lead agency responsible for conducting community education and outreach regarding registration of persons with special needs and general information about SpNSs. The department is required to disseminate the educational and outreach information through the local emergency management offices. The bill further requires the department to coordinate curriculum development and education dissemination related to SpNSs with the Governor's Working Group on the Americans with Disabilities Act and other specified state departments and agencies.

Persons with special needs must be allowed to bring a service animal into a SpNS in compliance with the Americans with Disabilities Act. The bill requires electric utilities to provide their customers with notice of the availability of the registration program twice per year. The bill also requires the Department of Health to be provided with registration information relating to persons with special needs in order to perform the department's duties and responsibilities. Hospices, nurse registries, and home medical equipment providers are added to the list of entities that are required to assist emergency management agencies by collecting registration information for persons with special needs.

Section 2. Creates s. 252.3568, F.S., to require the Division of Emergency Management to address the evacuation of persons with pets in the shelter component of the state comprehensive emergency management plan and to require the Department of Agriculture and Consumer Services to assist the division in determining strategies for pet and animal sheltering during a disaster.

Section 3. Creates s. 252.357, F.S., to require the Agency for Health Care Administration to monitor nursing homes during emergencies to determine if assistance is needed and to publish an emergency telephone number for nursing homes to use to request assistance.

Section 4. Amends s. 252.385, F.S., to require the Division of Emergency Management to prepare a statewide emergency shelter plan and submit the plan every other year to the Governor and Cabinet for approval. The plan must identify the general location and square footage of special needs shelters and include information about the availability of pet-friendly shelters. The Department of Health must assist in determining the estimated need for special needs shelter space. The local emergency management agency must inspect a designated public shelter facility to determine its readiness prior to activating the facility for a hurricane or disaster.

Section 5. Amends s. 381.0303, F.S., relating to the operation, maintenance and closure of SpNSs. The bill:

- Requires the local Children's Medical Services offices to assume lead responsibility for locally coordinating health care providers and other interested parties in developing a plan for staffing and medical management of pediatric SpNSs;
- Amplifies the county health department employees' requirement to staff SpNSs and requires county governments to assist in the process;
- Includes Children's Medical Services offices, along with appropriate county health departments and local emergency management agencies, in the joint decision regarding responsibility for medical supervision in an SpNS;
- Designates local emergency management agencies as responsible for the closure of SpNSs following an emergency or disaster;
- Declares that state employees with a pre-established disaster response role, unless they have other mandated response activities that preclude participation, may be called on to serve during disaster events commensurate with their knowledge, skills, and abilities;
- Requires the Secretary of the Department of Elderly Affairs to convene one or more multi-agency SpNS discharge planning teams as necessary to assist local areas severely impacted by a natural or manmade disaster. The bill provides that the team(s) will be made up of at least one representative from the Departments of Elderly Affairs, Health, Children and Family Services, Veterans' Affairs, Community Affairs, and the Agencies for Health Care Administration and Persons With Disabilities;
- Requires the Department of Health to reimburse health care practitioners upon request for medical care provided at the request of the department and deletes a reference to "subject to availability" of funds;
- Provides for reimbursement to receiving facilities for up to 90 days if the multiagency SpNS discharge planning team determines it is necessary to discharge persons with special needs to other specified facilities;
- Provides a limitation on reimbursement for services provided to a special needs client if the client was enrolled in another state-funded program such as Medicaid or another similar program, or who was covered under a health insurance policy, that would otherwise pay for the same services;
- Authorizes the Secretary of Health to establish a special needs shelter interagency committee and serve as or appoint a committee chair. The bill requires the Department of Health to provide necessary staff and resources to support the committee;
- Revises the membership of the SpNS Interagency Committee to include the Florida Association of Aging Services Providers, AARP, the Florida Area Health Education Center Network, and the Florida Renal Coalition, and requires the use of teleconference

- or video conferencing for the committee's meetings to ensure statewide input and participation;
- Provides rule making authority to the Department of Health to adopt SpNS standards, including the definition of "person with special needs," staffing, compliance with applicable service animal laws, provision of services and support, procedures for addressing the needs of unregistered clients, procedures for addressing the needs of families of special needs clients, and the requirement that county health department's seek the participation of health and medical emergency preparedness stakeholders in preevent planning;
 - Affirms the requirement for the submission of emergency management plans by home health agencies, nurse registries, hospice programs, and home medical equipment providers to local county health departments which specify the means the entity will use to provide the same type and quantity of services for patients who evacuate to SpNSs that were being provided to those patients prior to evacuation.

Section 6. Amends s. 400.492, F.S., regarding home health agencies and the provision of services during an emergency, to require a home health agency to include in its comprehensive emergency management plan the means by which the agency will continue to provide staff to perform the same type and quantity of services to patients who evacuate to an SpNS that were being provided to those patients prior to evacuation. The bill authorizes home health agencies to establish links to local emergency operations centers to determine how to best reach the agency's clients within a disaster area. The presentation of a home health agency's clients to a special needs shelter without a good faith effort by the agency to provide services in the shelter setting constitutes client abandonment and is a class II deficiency.

Section 7. Amends s. 400.497, F.S., to establish county health department procedures regarding the review of home health agencies' comprehensive emergency plans and to provide for notification of plan approval or deficiency. The bill authorizes the Agency for Health Care Administration to impose a fine under certain circumstances.

Section 8. Amends s. 400.506(16), F.S., regarding nurse registries and the provision of services during an emergency, to authorize nurse registries to establish links to local emergency operations centers to determine how to best reach the registry's clients within a disaster area. Also, the bill establishes county health department procedures regarding the review of nurse registries' comprehensive emergency plans and provides for notification of plan approval or deficiency. The presentation of nurse registry clients to a special needs shelter without a good faith effort by the nurse registry to provide services in the shelter setting constitutes client abandonment. The bill authorizes the Agency for Health Care Administration to impose a fine under certain circumstances.

Section 9. Amends s. 400.610, F.S., regarding hospices and the provision of services during an emergency, to authorize hospice providers to establish links to local emergency operations centers to determine how to best reach the hospice clients within a disaster area. Also, the bill establishes county health department procedures regarding the review of hospice comprehensive emergency plans and provides for notification of plan approval or deficiency. The presentation of

hospice clients to a special needs shelter without a good faith effort by the hospice to provide services in the shelter setting constitutes client abandonment.

Section 10. Amends s. 400.925, F.S., to provide a definition for “life-supporting or life-sustaining equipment.”

Section 11. Amends s. 400.934, F.S., regarding home medical equipment providers and the provision of services during an emergency, to require home medical equipment providers to prepare and maintain a comprehensive emergency management plan that meets minimum statutory criteria. The bill authorizes home medical equipment providers to establish links to local emergency operations centers to determine how to best reach the provider’s clients within a disaster area. Also, the bill establishes county health department procedures regarding the review of home medical equipment providers’ comprehensive emergency plans and provides for notification of plan approval or deficiency. The bill authorizes the Agency for Health Care Administration to impose a fine under certain circumstances.

Section 12. Amends s. 400.935, F.S., to require the Agency for Health Care Administration to adopt rules relating to the preparation of the comprehensive emergency management plan by home medical equipment providers and minimum criteria, including the maintenance of patient equipment and supply lists that can accompany patients who are transported from their homes.

Section 13. Amends s. 408.831, F.S., authorizing entities subject to regulation or licensure by the Agency for Health Care Administration, and acting in accordance with an emergency plan and an authorized evacuation order, to exceed their licensed capacity to act as a receiving facility. While in an overcapacity status, each provider must furnish or arrange for appropriate care and services to all clients. Overcapacity status in excess of 15 days may be approved by the Agency for Health Care Administration based on satisfactory justification and need as provided by the receiving and sending facility.

Under this section, an inactive license may be issued to a licensee located in a declared disaster area if the provider’s operation suffered damage during the state of emergency, is currently licensed, does not have a provisional license, and is temporarily unable to provide service but is reasonably expected to resume operations within 12 months.

An inactive license may be issued for a period of up to 12 months and may be renewed for up to an additional 12 months upon demonstration of progress towards reopening. The bill provides requirements for submission of a request for an inactive license or extension of a previously approved inactive period to the Agency for Health Care Administration. The bill provides for notification to clients of any necessary discharge or transfer as a result of granting inactive provider status and provides for a beginning date for the inactive licensure period and procedures for the reactivation of an inactive license.

Section 14. Provides for an effective date of July 1, 2006.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

Counties are already involved in emergency management activities and, therefore, the bill does not appear to impose significant new responsibilities upon them. The fiscal impact, if any, on counties is insignificant. The bill does not appear to require a municipality to expend funds or to take actions requiring the expenditure of funds.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Art. I, s. 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Art. III, Subsection 19(f) of the Florida Constitution.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Disaster response, particularly the set-up and operation of SpNSs, places considerable demands on private sector health care and health care support systems. Cost of service delivery is situation dependent, however, this bill addresses rule making for reimbursement of physicians and facilities providing special needs shelter services.

C. Government Sector Impact:

The bill does not appear to impose significant new responsibilities on counties. The fiscal impact, if any, on counties is insignificant. The bill does not appear to have a fiscal impact on municipalities.

The Department of Health estimates the additional responsibilities associated with the increase in comprehensive emergency management plan reviews to require \$2.7M in initial funding. The Department of Community Affairs, the Department of Elderly Affairs, and the Agency for Health Care Administration, should be able to carry out the provision of the bill within existing resources. Certain provisions of the bill are conditional upon funding.

This bill also requires the Department of Health to promulgate certain rules.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

VIII. Summary of Amendments:

None.

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