



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Empower families – This bill increases family stability by providing a dwelling and health care for certain out-of-state disabled veterans during times of emergency.

#### B. EFFECT OF PROPOSED CHANGES:

##### Present Situation:

##### **Florida's Veterans' Nursing Home Act**

The Veterans' Nursing Home of Florida Act<sup>1</sup> authorizes the Florida Department of Veterans' Affairs (FDVA) to run licensed health care facilities<sup>2</sup>. The law establishes veteran status, medical necessity, residency, and fiduciary requirements for an applicant to be admitted to any of Florida's five state veterans' nursing homes. The law creates an admittance priority that is based on the disability of the veteran and then on their ability to pay for nursing home care. The law also requires the state veterans' homes to receive contributions from their residents.

In order to be eligible for admittance to one of the state veterans' homes, a veteran<sup>3</sup> must:

- Be in need of nursing home care;
- Have been a Florida resident for 1 year immediately preceding, and at the time of application for, admission to the home;
- Not owe money to the FDVA for services rendered during any previous stay at a department facility; and
- Have applied for all financial assistance reasonably available through governmental sources<sup>4</sup>.

In addition, the law disallows discrimination against admitting an applicant based on race, age, sex, creed, religion, national origin, or any other discriminatory reason except for the applicant's veteran status<sup>5</sup>.

Regarding admittance priority, the law differentiates between veterans applying for admittance to a state veterans' home based on their disability. A veteran who has a service-connected disability<sup>6</sup> or who was discharged from military service for a disability received in the line of duty that resulted in the need for nursing home care, may be admitted into a state veterans' home<sup>7</sup>. Additionally, a veteran who has a non-service-connected disability but is unable to defray the expense of "civilian" nursing home care, and who attests to such under oath, may be admitted into a state veterans' home<sup>8</sup>. However, the veteran with the service-connected disability will receive admittance priority over the veteran with the non-service-connected disability<sup>9</sup>.

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<sup>1</sup> Part II, Chapter 296, F.S.

<sup>2</sup> Pursuant to Part II, Chapter 400, F.S.

<sup>3</sup> As defined in Section 1.01(14), F.S.

<sup>4</sup> The types of financial assistance from the government that veterans should apply for may include Medicare, Medicaid, and pension or disability benefits from the United States Department of Veterans Affairs.

<sup>5</sup> Section 296.35, F.S.

<sup>6</sup> as determined by the United States Department of Veterans Affairs.

<sup>7</sup> Section 296.36(2)(a), F.S.

<sup>8</sup> Section 296.36(2)(b), F.S.

<sup>9</sup> Section 296.36(2), F.S.

The law also requires that each state veterans' home cover, but not exceed, the actual cost of operating and maintaining the home primarily through contributions from the residents admitted to the home. The administrator of the nursing home, with the approval of the executive director of the FDVA, determines a sliding-scale payment schedule. Each resident who receives a pension or other compensation from the federal government, or income from any other source of more than \$35 a month, contributes<sup>10</sup> to his or her maintenance and support based on his or her ability to pay.

## Occupancy

Florida's veterans are reaping the benefits of the states veterans' nursing home program. According to the FDVA's Fiscal Year 2004-2005 Annual Report, the occupancy rate for the state veterans' home program is approximately 91-percent. This does not include, however, two new facilities that opened in 2003, which are allowed two years to meet state approved performance standards, and another facility that is undergoing Americans with Disabilities Act renovations. The overall occupancy decreases to 81-percent when all facilities are included. In the Annual Report, the FDVA claims it will continue to work towards achieving a 90-percent or higher occupancy rate.

The approximate wait times reported by the FDVA also reflect the high occupancy rate as well as demand from the state's veterans. Although the FDVA does not maintain a waiting list for admittance into the state veterans' homes, the department did provide information regarding possible wait times<sup>11</sup>:

<u>Facility</u>	<u># On List</u>	<u>Approximate Wait Time</u>
Springfield	4	30-90 days
Lake City	0	3 days
Daytona	6	30 days
Pembroke Pines	22	60-120 days
Port Charlotte	15	30-90 days
Land O' Lakes	33	30-180 days

The department explained that some veterans are on the wait list due to the introduction of specialized Alzheimer's beds in the homes. This would have a bearing on admittance procedures for a veteran with Alzheimer's if the home to which they were applying was not equipped with enough such beds.

## Residency

Disabled veterans appear to face two types of residency criteria in regard to the provision of medical services at state veterans' nursing care facilities. The first is the Veterans' Nursing Home of Florida Act admittance requirement for one year of residency in the state. The second relates to residency status for receiving governmental assistance, such as Medicaid, which must be applied for as another condition for admittance into the home.

The Medicaid Program has established certain rules relating to the provision of services inside and across state lines. These rules require the state of residence to be responsible for providing Medicaid to eligible residents of that state<sup>12</sup>. For institutionalized persons, such as those in veterans' nursing homes, these rules have determined that for the purposes of receiving Medicaid, the state of residence is the state where the individual is living with the intention to remain permanently or for an indefinite period of time<sup>13</sup>.

Additionally, the Medicaid rules prohibit a state from denying Medicaid eligibility:

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<sup>10</sup> Section 296.37(1), F.S.

<sup>11</sup> Communication with Greg Puckett, Program Director State Veterans Homes. February 21, 2006. Email on file with Committee on Military & Veteran Affairs

<sup>12</sup> Title 42 C.F.R. s. 435.403(a).

<sup>13</sup> Title 42 C.F.R. s. 435.403(i)(4).

- To an individual in an institution, who satisfied the Medicaid residency rules, even if that individual did not establish residency in the State before entering the institution<sup>14</sup>; or
- To an individual who has not resided in the state for a specific length of time<sup>15</sup>.

As noted above, should an individual from another state be admitted to a Florida veterans' nursing home, it would appear that the Medicaid rules relating to residency requirements would not be a deterrent to receiving Medicaid benefits as a subsidy to the cost of the nursing home care.

### **Effect of Proposed Changes:**

When Katrina struck Florida and the Gulf Coast in August 2005, the Governor issued a series of executive orders<sup>16</sup> promulgating a state of emergency, which allowed for mutual assistance between the coastal states affected by the hurricane. In an effort to assist eligible veteran disaster evacuees from Mississippi and Louisiana, the State Coordinating Officer issued a subsequent supplemental order<sup>17</sup>, providing a temporary waiver of the 1-year residency requirement for admittance to Florida's veterans' nursing homes. As a result of the supplemental order, the FDVA reports that three such out-of-state veterans were helped<sup>18</sup>.

House Bill 955 authorizes the executive director of the FDVA to waive the 1-year residency requirement for admittance to a state veterans' nursing home for a veteran from another state who is otherwise eligible for admission to a Florida state veterans' home. The bill stipulates, however, that the waiver may only be invoked if the veteran is a disaster evacuee from a state under a declared state of emergency. This provision, it should be noted, does not grant Florida residency to such a veteran, it simply waives the residency requirement under the Veterans' Nursing Home of Florida Act.

Without this bill, it appears that the only manner in which out-of-state disaster evacuee veterans would have access to Florida's veterans' homes in the future would be for the Governor to declare a state of emergency again. This would negatively affect those out-of-state veterans who are disaster evacuees if Florida did not declare its own state of emergency during the same time their home state declared a state of emergency. For example, had Katrina not hit south Florida, then the Governor would not have declared a state of emergency clearing the way for the waiver that eventually helped Mississippi and Louisiana veterans once Katrina turned north and hit those states.

HB 955 also revises the admittance priority by ensuring that a Florida veteran who meets all eligibility requirements for admittance to a state veterans' home has priority over an out-of-state veteran who has had the residency requirement waived as provided for above. This appears to have no impact on the residency considerations for Medicaid described in the Present Situation.

This bill takes effect July 1, 2006.

### **C. SECTION DIRECTORY:**

Section 1. Amends s. 296.36, F.S., by authorizing the executive director of the FDVA to waive residency requirements for certain, otherwise eligible disabled veterans for admittance to a Florida veterans' nursing home, and by subsequently revising admittance priorities.

Section 2. Provides that this act shall take effect July 1, 2006.

<sup>14</sup> Title 42 C.F.R. s. 435.403(j)(2).

<sup>15</sup> Title 42 C.F.R. s. 435.403(j)(1).

<sup>16</sup> Executive Orders 2005-176, 2005-177, and 2005-183.

<sup>17</sup> Supplemental Order to Executive Order 2005-176 issued September 2, 2005 and amended October 4, 2005 (under Executive Order 2005-183).

<sup>18</sup> Communication with Jim Brodie, Legislative Director, Florida Department of Veterans' Affairs. March 1, 2006. Email on file with Committee on Military & Veterans Affairs.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

This bill has an indeterminate impact on state government revenues. It is unknown how many eligible out-of-state veterans this bill would allow to gain access to Florida's veterans' homes, and it is unknown how many such veterans would bring in revenue for the state through their means or through government assistance programs.

#### 2. Expenditures:

This bill has an indeterminate and, as the FDVA states, "possible minimal short term Medicaid impact<sup>19</sup>" on state government expenditures. The impact is indeterminate because every out-of-state veteran eligible under this bill will have a different set of circumstances. Some will have sufficient means to cover their support costs at a veterans' home and others will rely more on government assistance. The impact is minimal since even though Katrina was one of the most destructive storms on record, only four veterans from affected states even inquired about admission to a Florida veterans' home.

### 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:

None.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenues.

#### 2. Other:

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

### B. RULE-MAKING AUTHORITY:

This bill does not appear to grant any rule-making authority.

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<sup>19</sup> Amended Admission Policy for State Veteran Nursing Home Admission. Florida Department of Veterans' Affairs. August 18, 2005.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**