

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Health Policy

BILL: SB 488

INTRODUCER: Senator Grimsley

SUBJECT: Emergency Medical Services

DATE: December 4, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Stovall	HP	Pre-meeting
2.			CA	
3.			RC	

I. Summary:

SB 488 exempts certain governmental entities that provide advanced life support nontransport services (ALSNS), as defined in the bill, from the requirement to obtain a certificate of public convenience and necessity (COPCN) as a condition of licensure to provide ALSNS.

Governmental entities that maintain fire rescue infrastructure and provide first responders are eligible for this exemption.

The exemption is preemptive unless a countywide emergency medical services authority has been created by special act.¹ The governmental entity must follow other statutory requirements, Department of Health (DOH) rules, and use a countywide common medical protocol if one exists and if the protocol does not restrict or limit the governmental entity's ability to provide ALSNS. The bill requires a governmental entity intending to provide ALSNS without a COPCN to notify the county and municipalities in its proposed service area when it submits its application to the state.

II. Present Situation:

Advanced Life Support Services

Prehospital life support services fall into two general categories, basic life support services and advanced life support services (ALS). ALS is sophisticated care using invasive methods, such as

¹ Chapter 75-492, Laws of Fla., established a countywide emergency medical services authority in Pinellas County. It appears as if this is the only such authority created by special act

intravenous fluids, medications and intubation.² ALS can be performed on site, in a ground ambulance, or in a helicopter and is usually implemented by physicians or paramedics.³

In emergency care, two alternative strategies have generally been presented:

- Scoop and run: the patient is transported to a high level hospital as quickly as possible, with minimal prehospital treatments, or
- Stay and play: the patient is stabilized on site before transportation.

The merits of these two strategies are still under debate.⁴

Certificates of Public Convenience and Necessity for the Provision of Basic or Advanced Life Support Services and Air Ambulance Services

A COPCN is defined as a written statement or document, issued by the governing board of a county, granting permission for an applicant or licensee to provide services authorized under such license for the benefit of the population of that county or an area within the county.⁵ In order to be licensed to provide basic or advanced life support services or air ambulance services an applicant must have obtained a COPCN from each county in which the applicant will provide services.⁶ Counties are allowed, but not required, to adopt ordinances to provide reasonable standards for the issuance of COPCNs. In adopting such ordinances, the counties must consider state guidelines, the recommendations of the local or regional trauma agency, and the recommendations of municipalities within their jurisdiction.⁷

County ordinances regarding COPCNs vary in detail from county to county. Of the counties surveyed,⁸ all ordinances detail specific application requirements, typically including forms required to be filed with the county, and application review criteria. The application review criteria typically require that applications be sent to each municipality within the county and the municipalities to make recommendations on the application. Such recommendations must be taken into account when deciding to grant or deny the COPCN.

The amount of detail required to be filed with a COPCN application also varies from county to county, but generally includes proof that the applicant has all necessary licenses as well as meets all state criteria for the provision of ALS or BLS services. Also included in such ordinances were revocation criteria, responsibilities conveyed on the holder of a COPCN, and a ban on the sale or reassignment of COPCNs. Additionally, the length of time that a COPCN lasts before it expires

² Ryynanen, et. al, *Is advanced life support better than basic life support in prehospital care? A systematic review*, Scand J Trauma Resusc. Emerg. Med. 2010; 18: 62, available at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3001418/> (Last visited on Nov. 30, 2017).

³ Id.

⁴ Supra note 2

⁵ Rule 64J-1.001, F.A.C.

⁶ Section 401.25(2)(d), F.S.

⁷ Section 401.25(6), F.S.

⁸ Counties surveyed include Volusia (Sec. 46-92 Volusia County Code of Ordinances), Broward (Ch. 3½, Broward County Code of Ordinances), Miami-Dade (Ch. 4 Art. I, Miami-Dade County Code of Ordinances), Wakulla (Ch. 11.5 Art. III, Wakulla County Code of Ordinances), Baker (Ch. 16, Art. III, Baker County Code of Ordinances), and Collier (Ch. 50 Art. III, Collier County Code of Ordinances). Counties without ordinances include, but are not limited to, Columbia, Franklin, Levy, and Gadsden Counties (*Conversation with Susan Harbin, Florida Association of Counties on Nov. 30, 2015*).

varies. For example, in Volusia County COPCNs expire after two years, in Broward County after 3 years, and in Miami-Dade County the COPCNs last until they are revoked.

Currently, if a COPCN is denied, there is no specific process for appeal detailed in the Florida statutes. As such, it is likely that any appeals of COPCN denials would be filed with the circuit court with jurisdiction over the county that denied the COPCN.

Licensure Requirements

The application requirements for a license to provide ALS include submission of:

- An application and applicable fees;
- Documentation that ambulances, equipment, vehicles, personnel, communications systems, staffing patterns, and services of the applicant meet the requirements of statute and rules;
- Evidence of insurance coverage or self-insurance; and
- A COPCN.⁹

III. Effect of Proposed Changes:

SB 488 amends various statutes related to medical transportation services:

Section 1 amends s. 401.23, F.S., to define the terms:

- “Advanced life support nontransport services” as the provision of advanced life support services in an emergency by a licensee until the arrival of an air ambulance or ambulance provided by another entity that is used for, or intended to be used for, land or water transport of sick or injured persons requiring or likely to require medical attention during transport.
- “Emergency” as a situation in which a person has a medical condition that manifests itself by acute symptoms of such severity including severe pain, that the absence of immediate medical attention could reasonably be expected to jeopardize the person’s health or result in serious impairment to bodily functions or serious dysfunction of any bodily organ or part. The term specifically includes a response to a 911 call.

Section 2 amends s. 401.25, F.S., to exempt any governmental entity that provides first responders and that maintains fire rescue infrastructure from the requirement to obtain a COPCN or any other authorization from a county to provide ALSNS notwithstanding any general law, special act, or local government ordinance. In order to be exempt, the governmental entity must follow statutory requirements, DOH rules, and use a countywide common medical protocol if one exists and if the protocol does not restrict or limit the governmental entity’s ability to provide ALSNS. Additionally, the exemption from the requirement to obtain a COPCN does not apply in a county in which there is a countywide emergency medical services authority created by a special act.¹⁰ Any governmental entity intending to provide ALSNS without a COPCN must notify the county and municipalities in its proposed service area when it submits its application to the state.

⁹ Section 401.25(2), F.S.

¹⁰*Supra* note 1.

Sections 3-9 amend ss. 14.33, 125.01045, 166.0446, 252.515, 395.1027, 401.245, and 401.27, F.S., to conform cross references to the changes made by the bill.

Section 10 establishes an effective date of July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

SB 488 may have an indeterminate positive fiscal impact on governmental entities that are able to provide ALSNS services without obtaining a COPCN from not being required to proceed through the COPCN process.

The bill may have an indeterminate negative fiscal impact on local governments with entities that are exempt from the COPCN process from a reduction in fees collected related to COPCN applications.

VI. Technical Deficiencies:

The definition of ALSNS specifies the services may be provided “until the arrival of an air ambulance or ambulance provided by another entity that is used for, or intended to be used for, land or water transport.” This provision should include air transport in addition to land and water transport.

Lines 61-63 provide that the COPCN exemption is available notwithstanding any general law, special act, or local government ordinance, however, lines 84-87 of the bill state that this exemption is not available in a county where there is a countywide emergency medical services

authority created by special act. As written, it is unclear whether the notwithstanding language in lines 61-63 would override the exception in lines 84-87. As such, lines 61-63 should be amended to read “However, notwithstanding any general law, special act, or ordinance of a local government to the contrary, *except as provided in subparagraph 4.*, a governmental entity that maintains a fire rescue...”

VII. Related Issues:

SB 488 exempts certain entities from the requirement to obtain a COPCN in order to be licensed to provide ALSNS. However, the bill does not establish a separate license type for ALSNS. Currently the definition of ALS in s. 401.23(2), F.S., which is not amended by the bill, includes “emergency medical transport or nontransport service.” As structured in the bill, entities using the exemption from the COPCN process would still be licensed by the DOH as full ALS providers since the DOH does not have authority to license a provider specifically for ALSNS. Once the entity has obtained a full ALS license, regardless of whether or not the entity used the COPCN exemption, it would be possible for the entity to provide ALS transport services under that license by obtaining vehicle permits from the DOH which do not require the entity to proceed through the COPCN process.¹¹

SB 488 defines the term “emergency” for use in part III of ch. 401, F.S. In several instances within part III of ch. 401, F.S., the term emergency is used in a context that is not contemplated by the definition of the term in the bill. For example, s. 401.273(1), F.S., uses the phrase “during times of emergency or major disaster” and s. 401.33(2), F.S., exempts a vehicle rendering unlicensed ambulance services from the provisions of the part “during a major catastrophe or emergency.” In both of these sections, the term emergency is being used in a similar manner to how the term is defined in s. 252.34(4), F.S.,¹² rather than how the term is defined in the bill. It is unclear how the definition of emergency in the bill would interact with the use of the term in such circumstances, but it may have unintended consequences.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 401.23, 401.25, 14.33, 125.01045, 166.0446, 252.515, 395.1027, 401.245, and 401.27.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

¹¹ Phone conversation with Paul Runk and Steve McCoy from the DOH on Dec. 1, 2017.

¹² “Emergency” means any occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property.

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