

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 Fiscal Policy

BILL: SB 788

INTRODUCER: Senators Truenow and Gaetz

SUBJECT: Veterans' Nursing Homes

DATE: April 16, 2025

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Proctor	Proctor	MS	Favorable
2. Howard	McKnight	AHS	Favorable
3. Proctor	Siples	FP	Favorable

I. Summary:

SB 788 provides a licensed skilled nursing facility on the campus of a retirement community qualified for nonprofit status under section 501(c)(3) of the Internal Revenue Code which provides housing for only veterans, their spouses, and surviving spouses, may request to create or modify the designation of specific beds exclusively for veterans and their spouses if specific criteria are met.

The bill authorizes the director of the Florida Department of Veterans' Affairs (FDVA) to approve requests to create or modify the designation of specific beds exclusively for veterans and their spouses under certain criteria.

The bill provides an exemption from the requirement to obtain a Certificate of Need (CON) from the Agency for Health Care Administration for:

- State veterans' nursing homes operated by or on behalf of the FDVA that are constructed with state or federal funds and where the federal government pays a per diem rate not to exceed one-half of the cost of the veterans' care.
- The consolidation or combination of licensed nursing homes or the transfer of beds between licensed nursing homes that are for the sole use of veterans, their spouses, or surviving spouses, by nursing homes with any shared controlled interest and if the site of the relocation is not more than 100 miles from the original location.

The FDVA may adopt rules to administer the provisions of the bill regarding the approval of veteran- and spouse designated nursing home beds.

The bill has no fiscal impact on state revenues or expenditures. **See Section V., Fiscal Impact Statement.**

The bill takes effect July 1, 2025.

II. Present Situation:

Florida Department of Veterans' Affairs

The Florida Department of Veterans' Affairs (FDVA) is a constitutionally chartered¹ department that was created to provide assistance to all former, present, and future members of the Armed Forces of the United States and their spouses and dependents in preparing claims for and securing compensation, hospitalization, career training, and other benefits or privileges to which they are, or may become entitled to under federal or state law or regulation by reason of their service.² The FDVA operates a network of nine state veterans' homes and provides statewide outreach to connect veterans with services, benefits, and support.³ The FDVA offers benefits and services in the fields of health care, mental health and substance abuse, claims support, education, employment, housing, burial benefits, and legal assistance.⁴ There are about 1.4 million veterans living in Florida, making the state's veteran population the third largest nationally.⁵

Veterans Nursing Homes

The FDVA provides care for veterans in both domiciliary homes and nursing facilities.⁶ Both veterans of wartime and peacetime service are eligible for admission.⁷ Veterans are admitted to both types of facilities based on a priority ranking.⁸ To be considered for admission to a veterans' home in Florida, a veteran must have been discharged from the military with either an honorable or an upgrade to an honorable discharge.⁹

Each veterans' nursing home is overseen by an administrator who is selected by the executive director (director) of the FDVA.¹⁰

To be eligible for admission, a veteran must:

- Be in need of nursing care.
- Be a resident of the state at the time of application for admission to the home.
- Not owe money to the FDVA for services rendered during any previous stay at an FDVA facility.

¹ FLA. CONST. art. IV, s. 11.

² Section 292.05(1), F.S.

³ Fla. Dep't of Veterans' Affairs, *Executive Director's Message*, available at <https://www.floridavets.org/leadership/> (last visited Mar. 20, 2025).

⁴ Fla. Dep't of Veterans' Affairs, *Benefits & Services*, available at <https://www.floridavets.org/benefits-services/> (last visited Mar. 20, 2025).

⁵ Fla. Dep't of Veterans' Affairs, *Our Veterans*, available at <https://floridavets.org/our-veterans/> (last visited Mar. 20, 2025).

⁶ Chapter 296, F.S.

⁷ Sections 296.08 and 296.36, F.S. "Wartime service" is defined as service in any of the following campaigns or expeditions: Spanish-American War (1898-1902); Mexican Border Period (1916-1917); World War I (1917-1918, with qualifying extensions until 1921); World War II (1941-1946); Korean War (1950-1955); Vietnam War, (1961-1975); Persian Gulf War (1990-1992); Operation Enduring Freedom (2001-date prescribed by presidential proclamation or by law); Operation Iraqi Freedom (2003-date prescribed by presidential proclamation or by law). Peacetime service is defined as any Army, Navy, Marines, Coast Guard, Air Force, or Space Force service not in any of the campaigns or expeditions. Section 1.01(14), F.S.

⁸ Sections 296.08 and 296.36, F.S.

⁹ Sections 296.02(9) and 1.01(14), F.S.

¹⁰ Section 296.34, F.S.

- Have applied for all financial assistance reasonably available through governmental sources.
- Have been approved as eligible for care and treatment by the United States Department of Veterans Affairs (VA).¹¹

Eligible veterans are given priority for admission to a home in the following order, veterans who:

- Are residents of the state.
- Have a service-connected disability as determined by the VA, or who were discharged or released from service for a disability incurred or aggravated in the line of duty and the disability is the condition for the nursing home need.
- Have a non-service-connected disability and are unable to defray the cost of nursing home care.¹²

A spouse or surviving spouse of an eligible veteran is also eligible for admission at the bottom of the priority list.¹³ The director of the FDVA may waive the residency requirement for an otherwise qualified veteran if the veteran is a disaster evacuee of a state under a declared state of emergency.¹⁴

The FDVA currently operates eight skilled nursing facilities throughout the state. The nursing homes are located in Daytona Beach, Orlando, Land O'Lakes, Pembroke Pines, Panama City, Port Charlotte, Port St. Lucie, and St. Augustine, Florida.¹⁵

Cost and Funding of Resident Care

A resident of a state veterans' home must contribute to the cost of his or her care if the resident receives a pension, compensation, gratuity from the federal government, or income from any other source of more than \$100 per month for domiciliary homes and \$160 per month for nursing homes.¹⁶

In addition to the resident's portion of payment, the VA provides a reimbursement care subsidy to domiciliary homes and nursing homes based on a per diem rate.¹⁷ The current VA per diem for domiciliary homes is \$59.69 a day.¹⁸ The current VA per diem for basic care in a nursing home is set at \$138.29 a day,¹⁹ while per diem for disabled veterans who are determined to be at least 70 percent disabled varies by location in the state from \$504.03 a day in Daytona to \$551.04 a

¹¹ Section 296.36(1), F.S.

¹² Section 296.36(3), F.S.

¹³ *Id.*

¹⁴ Section 296.36, F.S.

¹⁵ Fla. Dep't of Veterans' Affairs, *State Veterans' Homes*, available at <https://floridavets.org/locations/state-veterans-nursing-homes/> (last visited Mar. 20, 2025).

¹⁶ Sections 296.10 and 296.37, F.S. This contribution for care may be 100 percent of the cost if an otherwise eligible veteran is able to fund his or her own support.

¹⁷ 38 C.F.R. s. 51.390 and 38 C.F.R. s. 51.210.

¹⁸ U.S. Dep't of Veterans Affairs, Geriatric and Extended Care, State Home Per Diem Program, *State Home Per Diem Basic Rates for FYs 2000-2024*, available at https://www.va.gov/geriatrics/pages/State_Veterans_Home_Program_per_diem.asp (last visited Mar. 20, 2025).

¹⁹ *Id.*

day in Pembroke Pines.²⁰ To qualify for reimbursement, federal law requires at least 75 percent of the population of the facility to be veterans.²¹ This threshold drops to 50 percent if the facility was constructed or renovated solely by the state.²²

Federal law authorizes a state veterans' home to house non-veteran residents who are spouses of veterans or parents whose children died while in military service.²³ These residents may be required to pay for the full cost of their care since the VA does not provide a reimbursement care subsidy to domiciliary homes and nursing homes for these individuals.

VA Community Nursing Home (CNH) Program

Federal law authorizes the VA to contract with community nursing homes to provide care for eligible veterans.²⁴ Separate guidelines are outlined giving authority for the VA to place eligible veterans in non-VA facilities when necessary²⁵ and the requirements for State Veterans' Homes,²⁶ which are separate from the CNH Program but often related in the types of care that is offered.

For all types of VA skilled nursing home care, veterans must be eligible (and enrolled) in the VA health care benefit system, also called the standard medical benefits package, via the Veterans Health Administration and meet the following eligibility requirements:

- Must not have been dishonorably discharged.
- Must have served on active duty in the military, air, or naval service.
- Must have served 24-months continuously or the full active duty period in which one was called if enlisted after September 7, 1980, or became active duty after October 16, 1981. This minimum active duty criteria is not applicable for veterans who actively served before September 7, 1980, or were discharged due to a disability that resulted from, or was worsened, by active duty, or had an early-out or hardship discharge.
- National Guard or Reserves members (current and former) must have served on active duty per a federal order and served the entire period as ordered. Active duty status for training only does not count.²⁷

CNHs must provide 24-hour skilled nursing care (such as wound care or help with IV medication), occupational and physical therapy, and access to social work services. Additionally, some CNHs provide short term rehab services, hospice and palliative care for the end of life, and specialized care for dementia.²⁸

²⁰ Email from Jeff Obos, Public Information Administrator, Fla. Dep't of Veterans' Affairs, to Roy Clark, Director of Cabinet and Legislative Affairs, Fla. Dep't of Veterans' Affairs (Mar. 21, 2025) (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

²¹ 38 C.F.R. s. 51.210(d).

²² *Id.*

²³ *Id.*

²⁴ 38 U.S.C. s. 1720.

²⁵ 38 C.F.R. s. 17.51.

²⁶ 38 C.F.R. s. 51.20. *See also* 38 C.F.R. s 51.30.

²⁷ American Council on Aging, Veterans Nursing Homes: Community Living Centers, *Community Nursing Homes & State Veterans Homes*, available at <https://www.medicaidplanningassistance.org/veterans-nursing-homes/> (last visited Mar. 20, 2025).

²⁸ U.S. Dep't of Veterans Affairs, *Community Nursing Home*, available at https://www.va.gov/GERIATRICS/docs/Community_Nursing_Home.pdf (last visited Mar. 20, 2025).

Certificate of Need

A Certificate of Need (CON) is a written statement issued by the Agency for Health Care Administration (AHCA) evidencing community need for a new, converted, expanded, or otherwise significantly modified health care facility or hospice.²⁹

Certificate of Need Program

Florida's CON program has existed since July 1973. From 1974 through 1986, the specifics of the program were largely dictated by the federal National Health Planning and Resources Development Act of 1974 (Act), which established minimum requirements regarding the type of services subject to CON review, review procedures, and review criteria.³⁰ Each state was required to have a CON program in compliance with the Act as a condition for obtaining federal funds for health programs. The Act was repealed in 1986, but Florida retained its CON program.

The CON program is a regulatory process that requires certain health care providers to obtain state approval before offering certain new or expanded services. The CON program currently regulates hospices, freestanding inpatient hospice facilities, skilled nursing facilities and intermediate care facilities for the developmentally disabled. It does not regulate outpatient services, home health services, purchases of major medical equipment, assisted living facilities, and hospitals.³¹

The Florida CON program has three levels of review: full, expedited, and exempt.³² Expedited review is primarily targeted towards nursing home projects.

Determination of Need, Application, and Review Process

Most projects are reviewed on a competitive batching cycle review basis. At least 30 days prior to the application deadline for a batch cycle, an applicant must file a letter of intent with the AHCA.³³ A letter of intent is not required for projects that will be given a non-competitive, expedited review.³⁴ A letter of intent must describe the proposal, specify the number of beds sought, and identify the services to be provided and the location of the project.³⁵

Within 60 days after receipt of the completed applications for that batch, the AHCA must issue a State Agency Action Report and Notice of Intent to Award a CON for a project in its entirety, to award a CON for identifiable portions of a project, or to deny a CON for a project.³⁶ The AHCA must then publish the decision, within 14 days, in the Florida Administrative Weekly.³⁷ If no

²⁹ Section 408.032(3), F.S.

³⁰ Pub. Law No. 93-641, 42 U.S.C. s. 300k et seq.

³¹ Fla. Agency for Health Care Administration, *Certificate of Need (CON) Program Overview*, available at <https://ahca.myflorida.com/health-quality-assurance/bureau-of-health-facility-regulation/certificate-of-need-and-commercial-managed-care-unit/certificate-of-need-con-program-overview> (last visited March 20, 2025).

³² Section 408.036, F.S.

³³ Section 408.039(2)(a), F.S.

³⁴ Fla. Agency for Health Care Administration, *supra* note 31.

³⁵ Section 408.039(2)(c), F.S.

³⁶ Section 408.039(4)(b), F.S.

³⁷ Section 408.039(4)(c), F.S.

administrative hearing is requested within 21 days of the publication, the State Agency Action Report and the Notice of Intent to Award the CON become a final order of the AHCA.³⁸

Projects Subject to Expedited CON Review

Certain projects are eligible for expedited CON review. Applicants for expedited review are not subject to the application deadlines associated with full comparative review and may submit an application at any time. Projects subject to an expedited review include:

- Transfer of a CON.
- Replacement of a nursing home, if the proposed project site is within a 30-mile radius of the replaced nursing home. If the proposed project site is outside the subdistrict where the replaced nursing home is located, the prior 6-month occupancy rate for licensed community nursing homes in the proposed subdistrict must be at least 85 percent in accordance with the agency's most recently published inventory.
- Replacement of a nursing home within the same district, if the proposed project site is outside a 30-mile radius of the replaced nursing home but within the same subdistrict or a geographically contiguous subdistrict. If the proposed project site is in the geographically contiguous subdistrict, the prior 6-month occupancy rate for licensed community nursing homes for that subdistrict must be at least 85 percent in accordance with the agency's most recently published inventory.
- Relocation of a portion of a nursing home's licensed beds to another facility or to establish a new facility within the same district or within a geographically contiguous district, if the relocation is within a 30-mile radius of the existing facility and the total number of nursing home beds in the state does not increase.
- Construction of a new community nursing home in a retirement community under certain conditions.³⁹

Exemptions on CON Review

Upon request, certain projects may be provided with an exemption to a CON review, many involving hospitals, including:

- Converting licensed acute care hospital beds to Medicare and Medicaid certified skilled nursing beds in a rural hospital, so long as the conversion of the beds does not involve the construction of new facilities.
- Adding nursing home beds at a skilled nursing facility that is part of a retirement community offering a variety of residential settings and services.⁴⁰
- Building an inmate health care facility by or for the exclusive use of the Department of Corrections.
- Adding nursing home beds in a number not exceeding 30 total beds or 25 percent of the number of beds licensed in the facility being replaced in certain circumstances.
- State veterans' nursing homes operated by or on behalf of the FDVA.
- Combining within one nursing home facility of the beds or services authorized by two or more CON issued in the same planning subdistrict.

³⁸ Section 408.039(4)(d), F.S.

³⁹ Section 408.036(2), F.S.

⁴⁰ Section 408.036(3)(c). F.S. This exemption is limited to a retirement community that had been incorporated in Florida and operating for at least 65 years as of July 1, 1994.

- Dividing into two or more nursing home facilities of beds or services authorized by one CON issued in the same planning subdistrict.
- Adding nursing home beds licensed in a number not exceeding 10 total beds or 10 percent of the number of beds licensed in the facility being expanded, whichever is greater; or, for adding nursing home beds licensed at a facility that has been designated as a Gold Seal nursing home in a number not exceeding 20 total beds or 10 percent of the number of licensed beds in the facility being expanded, whichever is greater.
- Replacing a licensed nursing home on the same site, or within five miles of the same site if within the same subdistrict, if the number of licensed beds does not increase, except in certain circumstances.
- Consolidating or combining of licensed nursing homes or transfer of beds between licensed nursing homes within the same planning district, by nursing homes with any shared controlled interest within that planning district, if there is no increase in the planning district total number of nursing home beds and the site of the relocation is not more than 30 miles from the original location.
- For beds in state mental health treatment facilities, state mental health forensic facilities and state developmental disabilities centers.
- Establishing a health care facility or project that meets all the following criteria:
 - The applicant was previously licensed within the past 21 days as a health care facility or provider that is subject to CON.
 - The applicant failed to submit a renewal application and the license expired on or after January 1, 2015.
 - The applicant does not have a license denial or revocation action pending with the agency at the time of the request.
 - The applicant's request is for the same service type, district, service area, and site for which the applicant was previously licensed.
 - The applicant's request, if applicable, includes the same number and type of beds as were previously licensed.
 - The applicant agrees to the same conditions that were previously imposed on the CON or on an exemption related to the applicant's previously licensed health care facility or project.
 - The applicant applies for initial licensure as required under s. 408.806, F.S., within 21 days after the agency approves the exemption request. If the applicant fails to apply in a timely manner, the exemption expires on the 22nd day following the agency's approval of the exemption.⁴¹

CON Fees

An applicant for CON review must pay a fee to the AHCA when the application is submitted. The minimum CON application filing fee is \$10,000.⁴² In addition to the base fee, an applicant must pay a fee of 1.5 percent of each dollar of the proposed expenditure; however, the total fee may not exceed \$50,000.⁴³

⁴¹ Section 408.036(3), F.S.

⁴² Section 408.038(1), F.S.

⁴³ Section 408.038(2), F.S.

A request for a CON exemption must be accompanied by a \$250 fee payable to the AHCA.⁴⁴

III. Effect of Proposed Changes:

The bill amends s. 296.33, F.S., to define “veteran- and spouse-designated nursing home beds” to mean beds that are designated only for residents admitted in accordance with s. 296.36, F.S., to a licensed skilled nursing facility on the campus of a retirement community qualified for nonprofit status under s. 501(c)(3) of the Internal Revenue Code which provides housing for only veterans, their spouses, and surviving spouses.

The bill creates s. 296.411, F.S., to provide that the director of the Florida Department of Veterans Affairs (FDVA) may approve requests to create or modify veteran- and spouse-designated nursing home beds at a facility so long as any such beds operate in the VA Community Nursing Home Program and are in accordance with the requirements of ss. 296.35, 296.36, 296.37, and 296.41, F.S. The bill authorizes the FDVA to adopt rules to administer this process.

The bill amends s. 408.036(3), F.S., to revise exemptions to the Certificate of Need (CON) process for veterans nursing homes by providing that a CON is not required for:

- State veterans’ nursing homes operated by or on behalf of the FDVA that are constructed with state or federal funds and for which the federal government pays a per diem rate not to exceed one-half of the cost of the veterans’ care.
- The consolidation or combination of licensed nursing homes or the transfer of beds between licensed nursing homes that are for the sole use of veterans, their spouses, or surviving spouses, by nursing homes with any shared controlled interest and if the site of the relocation is not more than 100 miles from the original location.

The bill takes effect July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties or municipalities’ ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None identified.

C. Trust Funds Restrictions:

None identified.

⁴⁴ Section 408.036(4), F.S., and Rule 59C-1.005(2)(g), F.A.C.

D. State Tax or Fee Increases:

None identified.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None identified.

B. Private Sector Impact:

The bill may have an indeterminant positive fiscal impact on a licensed skilled nursing facility on the campus of a retirement community qualified for nonprofit status under s. 501(c)(3) of the Internal Revenue Code which provides housing for only veterans, their spouses, and surviving spouses, who requests to create or modify the designation of specific beds exclusively for veterans and their spouses under the provisions of the bill, and whose request is approved by the director of the Florida Department of Veterans Affairs.

C. Government Sector Impact:

None identified.

VI. Technical Deficiencies:

None identified.

VII. Related Issues:

None identified.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 296.33 and 408.036.

This bill additionally creates section 296.411 of the Florida Statutes.

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.

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