

STORAGE NAME: h3355s1a.ca

DATE: April 15, 1998

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
COMMUNITY AFFAIRS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 3355

RELATING TO: Emergency Management Planning

SPONSOR(S): Committee on Health Care Standards and Regulatory Reform, Representative Ogles and other

COMPANION BILL(S): CS/SB 1036 (s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) HEALTH CARE STANDARDS AND REGULATORY REFORM YEAS 9 NAYS 0
- (2) COMMUNITY AFFAIRS YEAS 9 NAYS 0
- (3) LAW ENFORCEMENT AND PUBLIC SAFETY
- (4)
- (5)

I. SUMMARY:

CS/HB 3355 requires county health departments to coordinate with local emergency management agencies for operations and staffing of special needs shelters during emergencies or major disasters. Minimum requirements are set for home health agency and hospice comprehensive emergency management plans which include registering people needing special assistance and establishing provisions for care in special needs shelters.

The bill provides for plan review and approval within 60 days by local emergency management agencies. During the 60-day period, the Agency for Health Care Administration, the Department of Children and Family Services, the Department of Elder Affairs, county health departments, local American Red Cross chapters, and other lead sheltering agencies must be given opportunity for plan review. Rules establishing plan requirements, standards of care, and services to be provided during a disaster are to be adopted by the Agency for Health Care Administration, in conjunction with the Department of Health.

The bill establishes a Special Needs Shelter Interagency Committee within the Department of Community Affairs. It also specifies its duties and membership requirements.

The bill may have a negative fiscal impact on state and local government, and the private sector.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

In 1995, it was estimated that approximately 19% of Florida residents (2.64 million out of a total population of 14.1 million) were over the age of 65. Many of these individuals are frail and disabled and, in the event of a hurricane or other major disaster, would need assistance in evacuating and require special needs sheltering due to physical or mental handicaps. The special needs population, admittedly, is not limited to those over the age of 65. However, registration data indicates that at least 90% of those who have requested special needs assistance are in this age group, which makes the size of the over-65 population in a given county a valid indicator of its special needs evacuation and shelter requirements.

The problems of the over-65 population in Florida are compounded by the fact that many of these individuals are retirees whose immediate family lives in other states, thus, depriving them of an available family support network to provide help in time of emergency. Additionally, the majority of the over-65 population live in coastal counties which are vulnerable to massive hurricane damage. In 1995, it was estimated that in 22 of Florida's 67 counties the over 65 population was 20% or more of the total population. Of the 22 counties, 17 are coastal counties where there is a high risk of hurricane landfall. Also, Broward, Dade, Palm Beach, and Pinellas counties have an over 65 population of at least 200,000 residents. Two counties, Hillsborough and Pasco, have an over-65 population in excess of 100,000 and seven counties have an over 65 population of between 75,000 and 100,000. These 13 counties account for 70% of the state's total over-65 population. Eleven of the 13 have extensive coastlines and are susceptible to massive hurricane damage, which places the special needs population at risk.

In 1985, Hurricane Elena showed that Florida was not prepared to evacuate and shelter its special needs population. As a result, the Legislature enacted legislation requiring each county to maintain a registry of disabled citizens located within its jurisdiction. In August of 1992, Dade County was devastated by Hurricane Andrew. In the aftermath of this storm, it was found that the state still was not prepared to evacuate and shelter citizens with special needs.

In 1993, the Legislature modified the State Emergency Management Act. Section 252.355, F.S., the "Registry of Disabled Persons" states, in part:

In order to meet the needs of persons who would need assistance during evacuation and sheltering because of physical or mental handicaps, each local emergency management agency in the state shall maintain a registry of disabled citizens located within the jurisdiction of the local agency. The registration shall be utilized to determine who would need assistance and plan for resource allocation to meet these identified needs.

The statute further states:

All appropriate agencies and community based service providers, including home health care providers, shall assist emergency management agencies by collecting registration information for people with special needs as part of program intake

processes, establishing programs to meet the awareness of the registration process and educating clients about the procedures that may be necessary for their safety during disasters. Clients of state or federally funded service programs with physical or mental handicaps who need assistance in evacuating or when in shelters must register as people with special needs.

A State Special Needs Task Force was formed in September 1993, with its final report submitted in February 1996. The following are specific problems identified by the State Special Needs Task Force:

- "There is an inability to meet minimum recommended staffing levels in special needs units/shelters. Public health unit and volunteer nurses are unable to provide the level of care in the numbers required. Home health providers must be responsible for shelter care of their clients."

- "The population at risk is changing and growing due to the trend toward more 'in home care' and less hospital and institutional care. This population exceeds the pre-registered population and results in last minute calls for assistance."

- "There is a lack of education for potential special needs clients, and training programs for service providers and shelter staffs."

- "Financial responsibility for sheltering costs in special needs units/shelters and health care facilities is undetermined."

- "The responsibility for provision of sufficient special needs unit/shelter spaces, equipment, and supplies is not clearly defined."

B. EFFECT OF PROPOSED CHANGES:

Special needs shelter operations are standardized by placing the lead responsibility to coordinate staffing and management of shelters with county health departments. Services to be provided in the shelters are defined, all home health agencies and hospices are required to establish emergency plans for their agency, and each patient (including service at special needs shelters), as required by agency rules.

The Agency for Health Care Administration, after consulting with the Department of Community Affairs, is required to develop, publish, and enforce minimum criteria for emergency plans for home health agencies.

The Agency for Health Care Administration, in conjunction with the Department of Health, is to develop rules for the standards of care to be provided in special needs shelters.

A Special Needs Shelter Interagency Committee within the Department of Community Affairs is established.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Yes, the bill requires additional authority to adopt rules.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes, there are new responsibilities for all county public health units, all home health agencies, all hospices, the Agency for Health Care Administration, the Department of Children and Families, the Department of Health, and the Department of Elder Affairs.

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

Home health agencies and hospices are required to register persons with special needs with the local emergency management agency and assist them in applying for public assistance in times of emergency.

(2) Who makes the decisions?

The individual or custodian.

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

No.

(5) Are families penalized for not participating in a program?

No.

b. Does the bill directly affect the legal rights and obligations between family members?

No.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

All home health agencies and hospices are required to develop comprehensive emergency management plans.

(3) government employees/agencies?

County public health units and emergency management agencies, Agency for Health Care Administration, and Departments of Elder Affairs, Children and Families, and Health.

D. STATUTE(S) AFFECTED:

Sections 20.43, 252.355, 400.497, 400.610, and 408.034, F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1. Amends s. 20.43(5), F.S., to require the county public health unit, in conjunction with local emergency management offices, coordination of recruitment of medical personnel to staff local special needs units or shelters. Specifies the agencies the county public health unit is to coordinate with when developing and implementing a plan for operation of the special needs shelter. Requires the county public health units to assist the emergency management agency in the operation of the special needs units or shelters.

Section 2. Amends s. 252.355, F.S., to make minor technical changes and add clarifying language to reword the categories of disabilities that should be included when determining the persons who would need assistance during evacuations and sheltering. Lists the Departments of Children and Family Services, Health, and Elder Affairs instead of the Department of Health and Rehabilitative Services, as being required to provide registration information to all of their special needs clients.

Section 3. Amends s. 400.497, F.S., and adds s. 400.497(11), F.S., to require the Agency for Health Care Administration, after consulting with the Department of Community Affairs, to develop, publish, and enforce minimum criteria for emergency plans for home health agencies. Designates elements of such plans, including client disaster preparedness education; client awareness of special needs registration, evacuation and shelter process; registration of clients requiring public assistance; emergency preparedness of agency offices and staff; coordinating with other agencies to provide continuity of care to clients during impact to include providing staffing for special needs shelters; tracking clients and handling family inquiries; medical records transfer; post-impact delivery of service, including resumption of services, facilitating client return to home care, referring client unable to return home to residential care facilities, and accepting new client as a result of the disaster.

Plans are to be reviewed by local emergency management agencies within 60 days of receipt. The agency is to verify review and approval by local emergency management agencies of home health agencies' plans. Other agencies are given the opportunity to review the plans.

Retirement communities which have home health agencies that serve only the residents of the retirement community are exempt from the requirements of this section if the retirement communities' plan provides for continuous care of all residents with special needs during an emergency.

Section 4. Amends s. 400.610, F.S., to establish the same requirements for hospices as those described in Section 3, except the Department of Elder Affairs is specified as the agency responsible for developing requirements with the Department of Community Affairs. The agency is to verify in its licensure surveys that plans were prepared by each hospice and reviewed by local emergency management agencies.

Section 5. Amends s. 408.034, F.S., to require the agency to develop rules, in coordination with the Department of Health, to establish uniform standards of care to be provided in special needs units or shelters.

Section 6. Establishes a Special Needs Shelter Interagency Committee within the Department of Community Affairs, to be chaired and staffed by that department. The committee is to resolve special needs sheltering problems and issues, as well as serve as an oversight committee to monitor the effectiveness of the special needs shelters. The various state agencies and associations that serve special needs populations, as well as emergency management representatives, are included in the task force. Tasks for the committee are listed and issues requiring additional legislation and funding are to be identified by January 1, 1999. Committee meetings are to be held in Tallahassee and all members are to serve at the expense of the agencies or organizations they represent.

Section 7. Provides for an effective date of October 1 of the year in which the bill is enacted.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

The Department of Elder Affairs indicates a fiscal non-recurring impact of \$63,374 for FY 1997-98. They estimate \$629,062 recurring effects in year 1, with the amounts for years 2 and 3 being \$629,062 and \$629,062, respectively. Their total revenues and expenditures would be \$1,950,560.

The Department of Health indicates a non-recurring first-year start-up of \$4,177 and all other expenses of \$2,855, totaling \$7,032.

SEE FISCAL COMMENTS SECTION.

2. Recurring Effects:

The Department of Health indicates that the impact on state agencies will be minor. Initial start-up costs for new staff needed to administer the program and the cost of initial equipment and supplies to stock special needs shelters will be one time. Ongoing staff costs and maintenance of stock in the special needs shelters will require future outlays.

The Agency for Health Care Administration will experience a fiscal impact due to rulemaking and routine review of emergency plans required in home health agencies and hospices.

Additional staff time will be required from county public health units should there be an emergency, since they will be required to coordinate staffing for special needs shelters.

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

Additional staff time will be required from county public health units should there be an emergency, since they will be required to coordinate staffing for special needs shelters.

Additional staff time will also be needed for local emergency management agencies to review home health agencies and hospice emergency plans. (Currently, there are 1,448 home health agencies and 40 hospices in Florida).

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Public sector cost for the compliance portion of this proposal will be primarily with the Agency for Health Care Administration. Review of plans by Department of Health personnel should cost approximately \$200 per application, which will be absorbed in the personnel costs (anticipated number of applications is unknown at this time).

The Department of Health indicates that costs to provide a plan for each home health agency and hospice could vary, depending upon size of the institution, but a reasonable range for construction of a plan would be anywhere from \$1,200 to \$5,000. Total cost can be projected when the department knows the number of agencies involved.

Additional staff time at home health agencies and hospices will be required to develop emergency management plans. There will also be additional staff time involved and costs for home health agencies to assume responsibilities for patients beyond those they currently have, should there be a disaster.

Both home health agencies and hospices are required to provide staff for special needs shelters in an emergency. They would have to assume those costs as well, unless other resources, such as federal or state disaster relief funds, become available.

2. Direct Private Sector Benefits:

N/A

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill will result in additional costs to local county emergency management agencies and public health units for additional responsibilities. According to the Agency for Health Care Administration, these costs are indeterminable.

Article VII, section 18, subsection (d) of the Florida Constitution provides a mandate exemption for laws having an insignificant fiscal impact. It is difficult to estimate the fiscal impact of this measure without specific information from each local government indicating how much it costs to implement this bill's provisions. Therefore, it is not clear whether the bill is exempt from this mandate provision or will ultimately require a two-thirds vote of the membership of each house.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

Committee on Health Care Standards and Regulatory Reform

The Department of Health has indicated that:

“This proposal deals with a problem that is very difficult to resolve. No agency wants to assume responsibility because of the open-ended potential for the number of users and the great challenge to bring communities together to cope with staffing and operating special needs shelters. While Red Cross designates, inspects, and operates “non-special needs shelters,” they have been unwilling to operate special needs shelters. No agencies within the local communities have been willing to step forward and assume responsibility. This proposal is an attempt to specifically identify responsibilities and designate roles for organizations. The major deficit in the proposal is the lack of identification of funding sources to carry out duties and responsibilities generated by the proposal. Without a source of revenue, the goals sought in this proposal will be impossible to achieve without jeopardizing already existing programs.”

Committee on Community Affairs

It is unclear what constitutes a “special needs shelter.” Neither the bill, nor existing statutes provide a definition identifying a facility as a “special needs shelter.” Further, it is unclear whether the bill provides adequate rulemaking guidance to the appropriate state agency(ies) regarding the following questions:

- Are “special needs shelters” subject to inspections?;
- Is the Department of Health the appropriate agency to inspect “special needs shelters?”; and
- What standard should the inspections be measured by?

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The House Committee on Health Care Standards and Regulatory Reform adopted eight amendments and made the bill a committee substitute on March 18, 1998. The differences between the original bill and the committee substitute are as follows:

- The roles and responsibilities of the county public health unit were clarified in Section 1 so that the recruitment of medical personnel for the special needs shelters is a joint effort between the local county public health units and the local emergency management offices.
- The wording in Section 3 related to the responsibilities of the home health agencies was modified to clarify that these agencies would have responsibility to coordinate with other agencies to continue services to clients evacuated to special needs shelters.
- Minor technical wording changes were made in Section 4.
- The statutory reference in Section 5 was corrected, and the Department of Health was included to work with the Agency for Health Care Administration in developing rules for the standards of care to be provided in special needs shelters.

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- A Special Needs Shelter Interagency Committee was created within the Department of Community Affairs, with duties and membership specified.

On April 15, 1997, the House Committee on Community Affairs adopted four amendments to CS/HB 3355. The amendments are traveling with the bill. The amendments remove the Department of Elder Affairs from provisions giving certain agencies an opportunity to review home health agencies and hospices' emergency management plans. The term "skilled nursing services" replaces the term "continuing amount of care" or similar terms. Finally, the amendments add agencies interested in offering a representative to serve on the special needs shelter interagency committee and provides that the list of these agencies is not exhaustive.

VII. SIGNATURES:

COMMITTEE ON HEALTH CARE STANDARDS AND REGULATORY REFORM:

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