

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

**BILL:** CS/SB 2314

**SPONSOR:** Committee on Children and Families and Senator Campbell

**SUBJECT:** Assisted Living Facilities

**DATE:** April 7, 1999                      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Crosby</u>	<u>Whiddon</u>	<u>CF</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>FP</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

**I. Summary:**

The Committee Substitute for Senate Bill 2314 authorizes the Agency for Health Care Administration to promulgate rules on the issue of cooling in nursing homes and the Department of Elderly Affairs to promulgate rules on the issue of cooling in assisted living facilities.

This bill amends sections 400.23 and 400.441, Florida Statutes, 1998 Supplement.

**II. Present Situation:**

As a result of two deaths in long-term care facilities last summer related to lack of air conditioning and dehydration, there is increased concern over this issue. The two deaths which occurred last summer were in a nursing home, which had an air conditioning system, though the air conditioning system was apparently broken. The deaths resulted from dehydration.

Federal regulations require that all nursing homes which are Medicare or Medicaid certified after October 1, 1990 maintain temperatures between 71° and 81° F. 42 C.F.R. s. 483.15. Nursing homes which are only regulated under state law and regulation must ensure that the facility provides comfortable and safe temperature levels. Rule 59A-4.122, F.A.C.

*Statutory Provisions--*

Section 400.23, F.S., 1998 Supp., relating to nursing home rules, provides, in relevant part, that the Agency for Health Care Administration (AHCA), in consultation with the Department of Health and Rehabilitative Services (changed to Department of Health, Chapter No. 99-8, L.O.F.) and the Department of Elderly Affairs, shall adopt and enforce rules to implement this part, which shall include reasonable and fair criteria in relation to the location and construction of the facility including fire and life safety, plumbing, heating, lighting, ventilation, and other housing conditions which will ensure the health, safety, and comfort of residents.

Section 400.441, F.S., 1998 Supp., relating to rules for ALFs, gives the Department of Elderly Affairs (DOEA) authority to publish and enforce rules in order to ensure a reasonable and consistent quality of resident care and quality of life. Such rules ensure a safe and sanitary environment that is residential and noninstitutional in design or nature. In order to provide safe and sanitary facilities, as well as the highest quality of resident care, DOEA, in consultation with AHCA, the Department of Children and Family Services, and the Department of Health, shall adopt rules, policies, and procedures which must include reasonable and fair minimum standards in relation to the requirements for and maintenance of facilities relating to plumbing, heating, lighting, ventilation, living space, and other housing conditions. The goal is to ensure the health, safety, and comfort of residents and to protect residents from fire hazard. Uniform fire safety standards are established and enforced by the State Fire Marshal in cooperation with DOEA, AHCA, and the Department of Health.

*Rules Authority--*

Rule 59A-4.122(2)(f), F.A.C., relating to the physical environment in nursing homes, requires that facilities provide comfortable and safe temperature levels.

Pursuant to the DOEA's authority to promulgate rules in the area of heating, Rule 58A-5.023(2), F.A.C., relating to physical plant standards in assisted living facilities, requires that indoor temperatures fall no lower than 68° F. at night and 72° F. by day when outside temperatures are 65° F. or below; this rule permits the residents to regulate thermostats in their own rooms. Pursuant to the DOEA's authority to promulgate rules in the area of comfort, Rule 58A-5.023(3), F.A.C., provides that mechanical cooling devices must be used when inside temperatures exceed 85° F. The Department of Elderly Affairs reports that they are currently in the process of amending the ALF rule at ch. 58A-5, F.A.C., to require all facilities licensed or renovated after 6 months from the effective date of the rule to maintain indoor temperatures not to exceed 85° F. and to require all facilities holding an extended congregate care license to provide air conditioning.

### **III. Effect of Proposed Changes:**

Section 1 amends s. 400.23, F.S., 1998 Supp., relevant to nursing home standards, to authorize AHCA, in consultation with the Departments of Elderly Affairs and Health, to promulgate rules to address cooling issues.

Section 2 amends s. 400.441, F.S., 1998 Supp., relevant to ALF standards, to authorize the Department of Elderly Affairs to promulgate rules to address cooling issues.

Section 3 provides that this act shall take effect July 1, 1999.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

There will be some fiscal impact on nursing homes and assisted living facilities by virtue of the cost of actually running a cooling system.

## C. Government Sector Impact:

The Department of Elderly Affairs reported no fiscal impact associated with the bill as filed. It is not estimated that the changes in this Committee Substitute will cause a fiscal impact on DOEA or on AHCA because this bill only authorizes rule development.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Section 381.006, F.S., relating to environmental health, provides that the department shall conduct an environmental health program as part of fulfilling the state's public health mission. The purpose of this program is to detect and prevent disease caused by natural and manmade factors in the environment. The environmental health program shall include, but is not limited to, a public facilities function, which includes sanitary practices relating to state, county, municipal, and private institutions serving the public. These facilities include publicly and privately owned schools; all places used for the incarceration of prisoners and inmates of state institutions for the mentally ill; toilets and washrooms in all public places and places of employment; and any other condition, place, or establishment necessary for the control of disease or the protection and safety

of public health. Group care facilities such as child care facilities, adult day care facilities, and assisted living facilities fall under these regulations. The related rule is found at Rule 64E-12.005, F.A.C., regarding housing, and provides, in pertinent part, that the facility shall provide safe and sanitary housing as well as provide adequate heating facilities to maintain a minimum temperature of 68° F. Mechanical cooling devices shall be made available for use in those areas of the building that are occupied by residents when inside temperatures exceed 85° F. All heating and cooling systems shall be consistent with current building and fire code rules applicable to the area where the facility is located.

**VIII. Amendments:**

None.

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

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