

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1618

SPONSOR: Health, Aging and Long-Term Care Committee and Senator Saunders

SUBJECT: Nursing Shortage Solutions

DATE: February 6, 2002

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harkey	Wilson	HC	Favorable/CS
2.			AED	
3.			AP	
4.				
5.				
6.				

I. Summary:

This bill creates the Nursing Shortage Solution Act. The bill modifies the repayment provisions of the Nursing Student Loan Forgiveness Program to make them more consistent with the provisions of similar state loan forgiveness programs. The bill requires applicants for the Nursing Scholarship Program to be enrolled in an approved nursing program leading to the award of an associate degree, a baccalaureate degree, or a graduate degree in nursing.

The bill creates the Sunshine Workforce Solutions Grant Program to provide grants for middle school exploratory programs and high school nursing programs. Grants are to be provided to school districts on a competitive basis and may be used for instructional equipment, laboratory equipment, supplies, personnel, student services, or other expenses associated with development of a nursing program.

An out-of-state applicant for a nursing license by endorsement would be granted up to a 180-day temporary work permit while awaiting the results of the required criminal history check. The bill permits an applicant who has actively practiced nursing in another state or U.S. territory for two of the three preceding years without having his or her license acted against to obtain a Florida license provided he or she completes a course on Florida laws and rules within six months of receiving the license.

The bill revises the authority of the Board of Nursing to adopt rules for approval of nursing programs and provides exemptions from board rule for certain accredited nursing programs.

The bill amends the grounds for denial of a nursing license or disciplinary action, to add "engaging in acts for which the licensee is not qualified by training or experience" as grounds for those actions.

The bill appropriates \$1 million during 2002-2003 to the Department of Health for nurse retention efforts and out-of-state recruitment by hospitals with nurse vacancy rates that exceed the national average nurse vacancy rate.

This bill amends ss. 240.4075, 240.4076, 464.009, 464.018, and 464.019, F.S.; and creates two unnumbered sections of law.

II. Present Situation:

The Nursing Shortage

In Florida there is a statewide shortage of nurses that mirrors the nationwide nursing shortage. According to a November 2001 report by the Florida Hospital Association (FHA), during the week of February 18-24, 2001, there were 3,087 open registered nursing (RN) positions in the 61 hospitals responding to a survey, indicating a statewide RN vacancy rate of 15.6 percent.

According to the United States Census Bureau the number of nurses practicing in the United States will be 20 percent below the projected need in the year 2020. In Florida, the demand for registered nurses will grow from 120,700 to 156,100 in the next decade. Efforts to improve patient safety and staffing levels to provide quality health care will continue to escalate the demand for qualified experienced registered nurses.

The Southern Regional Education Board (SREB) reports that nursing faculty shortages are worsening in the 16 SREB states and the District of Columbia to the point that the "... projected shortage of nurse educators threatens the region's capacity to ensure the health of its residents." The SREB survey shows that resignations reported by nursing education programs in the southern region for the 2000-2001 academic year and projected for the next two years will total 558. Of the 350 resignations and 144 retiring nurse educators for 2000-2001, 465 held a masters' degree or a doctorate. Florida, with 56 resignations or expected resignations, was one of four states with total resignations exceeding 50 during the next two years. The two most common reasons for resigning were family responsibilities and salaries. The survey projections indicate that 784 nurse educators expect to retire in 2002-2006. Florida, with 84, reported the second highest expected number of retiring nurse educators among the SREB states. Twelve institutions in Florida reported not having enough faculty for undergraduate and graduate nursing programs.

The Nursing Student Loan Forgiveness Program

Section 240.4075, Florida Statutes, establishes the Nursing Student Loan Forgiveness Program within the Department of Health. The primary function of the program is to increase employment and retention of registered nurses and licensed practical nurses in nursing homes and hospitals in the State and in State-operated medical and health care facilities, public schools, birth centers, federally sponsored community health centers, family practice teaching hospitals, and specialty children's hospitals. The program provides financial assistance to eligible nurses by making repayments toward loans obtained by the licensed nurse to pay for a postsecondary nursing education. To be eligible for repayment of a loan, a candidate must have graduated from an accredited or approved nursing program and have received a Florida license as a licensed practical nurse or registered nurse, or certification as an advanced registered nurse practitioner.

The program only covers repayment of loans to pay the costs of tuition, books, and living expenses for a total which may not exceed \$4,000 for each year of education. To receive funds under the program, the candidate must show proof of employment in designated facilities in the State.

Loan principal payments must be made by the Department of Health directly to the federal or state programs, or the commercial lending institutions. The loan principal and accrued interest is retired on the following schedule: twenty-five percent of the loan principal and accrued interest shall be retired after the first year; fifty percent is retired after the second year; seventy-five percent is retired after the third year; and the remaining loan principal and accrued interest after the fourth year.

The program is funded through a \$5 fee which is added to the nursing licensure or licensure renewal fee and matching funds from certain employing institutions. Funds are deposited into the Nursing Student Loan Forgiveness Trust Fund in the Department of Health. Trust fund monies are to be used exclusively for the Nursing Student Loan Forgiveness Program and the Nursing Scholarship Program described below.

The Nursing Scholarship Program

Section 240.4076, F.S., establishes the Nursing Scholarship Program that gives financial assistance to applicants who are enrolled as full-time or part-time students in the upper division of an approved nursing program leading to a baccalaureate degree or graduate degree to qualify for a nursing faculty position or as an advanced registered nurse practitioner degree or are enrolled as a full-time or part-time student in an approved program leading to an associate degree in nursing. A scholarship may be awarded for no more than 2 years, in an amount no greater than \$8,000 per year. Registered nurses who are pursuing an advanced registered nurse practitioner degree may receive up to \$12,000 per year. Beginning July 1, 1998, these amounts are adjusted by the amount of any increase or decrease in the consumer price index for urban consumers, published by the United States Department of Commerce.

For each full year of scholarship assistance, the recipient must agree to work for 12 months in a faculty position in a college of nursing or community college nursing program in this state or at a health care facility in a medically underserved area. Any recipient who does not complete an appropriate program of studies or who does not become licensed must repay the scholarship plus 18 percent interest. Any recipient who does not accept employment as a nurse at an approved health care facility or who does not complete 12 months of approved employment for each year of scholarship assistance must repay the scholarship plus interest at the maximum allowable interest rate permitted by law.

Florida Center for Nursing

Section 464.0195, F.S., creates the Florida Center for Nursing. The center was established by the 2001 Legislature to address issues of supply and demand for nursing, including issues of recruitment, retention, and utilization of nurse workforce resources. The primary goals of the center are to develop a strategic statewide plan for nursing manpower in this state; convene various groups representative of nurses, other health care providers, business and industry,

consumers, legislators, and educators to recommend systemic changes; and enhance and promote recognition, reward, and renewal activities for nurses in the state.

The 2001 Legislature appropriated \$200,000 (Specific Appropriation 293 of the General Appropriations Act) to the Agency for Health Care Administration for a Center for Nursing for collection and analysis of data on nursing shortage issues.

Regulation of Nursing Practice

Part I, chapter 464, F.S., provides for the regulation of nursing practice by the Board of Nursing within the Department of Health. The part provides licensure requirements for licensed practical nurses and registered nurses, and certification requirements for advanced registered nurse practitioners. Section 464.018, F.S., provides grounds for denial of a nursing license and for disciplinary action. The part requires any institution wishing to conduct an approved nursing program in Florida to apply to the Department of Health and to show compliance with the requirements of the part and any applicable administrative rules adopted by the board (Section 464.019, F.S.). The part requires professional or practical nursing licensure applicants to graduate from an approved nursing program as a prerequisite to being allowed to sit for the nursing licensure examination (Section 464.008, F.S.).

Section 464.009, F.S., establishes the requirements for the Department of Health to issue a license by endorsement to a nurse who holds a valid license to practice professional or practical nursing in another state of the United States. In order to obtain a Florida license, an applicant for licensure by endorsement must have secured his or her original license under requirements that were substantially equivalent to or more stringent than those existing in Florida at that time, or meet the qualifications for licensure by examination and have successfully completed a state, regional, or national examination which is substantially equivalent to or more stringent than the examination given by the Department of Health. In addition, the applicant must undergo a criminal background check. Under this section, the Department of Health may not issue a license until the criminal background check is completed. However, subsection (8) of s. 464.022, F.S., provides that any nurse currently licensed in another state may perform nursing services in this state for a period of 60 days after furnishing to the employer satisfactory evidence of current licensure in another state and having submitted proper application and fees to the Board of Nursing for licensure prior to employment. The board is authorized to extend this time for administrative purposes when necessary.

Section 464.019, F.S., grants the Board of Nursing authority to adopt rules regarding educational objectives, faculty qualifications, curriculum guidelines, administrative procedures, and clinical training as are necessary to ensure that approved nursing programs graduate nurses capable of competent practice (64B9-2, *Florida Administrative Code*).¹ In rule 64B9-2.008, F.A.C., the

¹ Rule 64B9-2.004, F.A.C., requires faculty of nursing programs to formulate and adopt educational objectives that ensure that Board of Nursing-approved curriculum guideline requirements will be met. Rule 64B9-2.015, F.A.C., provides standards of nursing education, including program evaluation. Under that rule the minimum acceptable level of performance as required by the Board of Nursing on the National Council of State Boards of Nursing licensing examination for graduates of a nursing education program during the fiscal year of the Department of Health shall be 10 percent below the national or state average, whichever is lowest, as published by the contract testing service of the National Council of State Boards of Nursing.

Board of Nursing establishes the clinical student/teacher ratio as “no more than twelve students . . . to a faculty member.” In September, 2000, the board proposed decreasing the ratio to eight to one or 10 to one. The proposal was announced after the divisions within the Department of Education had already submitted their budget requests. According to an electronic mail survey, decreasing the ratio to eight to one would have increased the training costs borne by community college nursing programs by \$4 to \$5 million.

Section 100, chapter 2001-203, Laws of Florida, provided that the Board of Nursing within the Department of Health must hold in abeyance until July 1, 2002, the development of any administrative rule pursuant to s. 464.019, F.S., which relates to the establishment of faculty/student clinical ratios. The Board of Nursing and the Department of Education must submit to the President of the Senate and the Speaker of the House of Representatives by December 31, 2001, an implementation plan that details both the impact and the cost of any such proposed rule change.

Pursuant to ch. 2001-203, L.O.F., the Department of Education/Board of Nursing Task Force on Clinical Ratios in Florida Nursing Programs submitted a report in December, 2001 and recommended:

- “No change in the faculty:student clinical ratios for a period of two years (July, 2004)[sic];
- “That a study be conducted to examine the issues of the relationship of clinical ratios to patient safety and quality of education. The study should be conducted by the Florida Center for Nursing or by the Council for Educational Policy Research and Improvement. Data from this proposed study should be presented to a future task force composed of representative of the Board of Nursing and the Department of Education in order to investigate possible alteration of rules affecting clinical ratios.”²

Department of Education Student Financial Aid Programs

Part IV of chapter 240, F.S., governs state scholarship and student financial aid programs. Section 240.451, F.S., requires the terms of all authorized loans to be fixed in rules adopted by the State Board of Education and the loan agreements to be entered into with the student borrowers. Section 240.465, F.S., establishes procedures for the Department of Education to follow to collect delinquent unpaid and uncanceled scholarship loan notes. The State Board of Education is required to adopt rules to regulate the collection, settlement, and charging off of unpaid and uncanceled scholarship loan notes, student loan notes, and defaulted guaranteed loan notes.

III. Effect of Proposed Changes:

Section 1. Names the bill the “Nursing Shortage Solution Act”.

² Report to the Legislature by the Department of Education/Board of Nursing Task Force on Clinical Ratios in Florida Nursing Programs (December, 2001).

Section 2. Amends s. 240.4075, F.S., to modify the repayment provisions of the Nursing Student Loan Forgiveness program to make them more consistent with the provisions of similar state loan forgiveness programs. The amount of the loan repayment is for a maximum of \$4,000 per year for up to 4 years. The repayment schedule and interest rates will be established by State Board of Education rules. The bill prohibits a student who receives a nursing scholarship under s. 240.4076, F.S., from participating in the loan forgiveness program.

Section 3. The bill amends s. 240.4076, F.S., the Nursing Scholarship Program, to require a scholarship applicant to be enrolled in an approved nursing program leading to the award of an associate degree, a baccalaureate degree, or a graduate degree in nursing. Recipients who do not comply with the requirements for obtaining a scholarship are required to repay the entire amount of the scholarship plus interest at repayment schedules and interest rates determined by the State Board of Education under ss. 240.451 and 240.465, F.S.

Section 4. Creates the Sunshine Workforce Solutions Grant Program to provide grants, on a competitive basis, to allow school districts to fund all or some of the costs associated with establishing exploratory middle school programs or comprehensive career and technical education programs within high schools that provide a program of study in nursing.

Grant applications must be submitted to the DOE. Selection will be based on existing infrastructure that would ensure success of the program. Ranking is determined both by existing infrastructure and statewide geographic dispersion of grant funds. Other criteria include demonstrated successful student recruitment, retention, and program completion. Funds awarded may be used for instructional equipment, lab equipment, supplies, personnel, student services, or other expenses associated with the development of a program in nursing.

Section 5. Amends s. 464.009, F.S., which governs nursing licensure by endorsement to require the Department of Health to issue a license to a nurse who has actively practiced nursing in another state or territory of the United States for 2 of the immediately preceding 3 years without having his or her license acted against by the licensing authority of any jurisdiction. Within 6 months after obtaining a license under this provision, a licensee must have completed a board-approved course on Florida laws and rules. An applicant for licensure by endorsement may be granted a temporary 180-day work permit pending results of the national criminal history check. Once the department has received the results of the criminal history check and determined that the applicant has no criminal history, the appropriate license will be issued to the applicant. The authorization to obtain a license by endorsement in this way will expire on July 1, 2004.

Section 6. Amends s. 464.018, F.S., to amend the grounds for denial of a license or disciplinary action, to add “engaging in acts for which the licensee is not qualified by training or experience” as grounds for those actions.

Section 7. Amends s. 464.019(2), F.S., to modify the provision relating to the Board of Nursing process for approving nursing programs. The bill provides that no program will be fully approved or exempted from the board rules prior to the graduation of the program’s first class. The board must adopt rules regarding educational objectives and curriculum guidelines necessary for full approval of a program. The bill requires that such educational objectives

consider student attrition rate standards and availability of qualified faculty and appropriate clinical training facilities.

The board must adopt rules governing probation, suspension, and termination status of programs that fail to comply with the standards set by the board. The board may not adopt a rule prohibiting a qualified institution from placing a student in a facility for clinical experience, regardless of whether more than one nursing program is using the same facility for clinical experience. The bill requires the board to adopt rules governing probation, suspension, and termination status of programs that fail to comply with the standards. The bill prohibits the board from limiting the number of students admitted to a nursing program as long as appropriate student-to-teacher ratios are maintained.

The bill provides an exemption from board rules for any nursing program that maintains accreditation through a nursing accrediting body recognized by the United States Department of Education. The exemption does not exempt these institutions from rules regarding educational objectives and curriculum guidelines necessary for full approval of a program. The exemption only applies to the extent the program maintains a student pass rate on the National Clinical Licensure Exam of not less than ten percentage points below the national average pass rate as reported annually by the National Council of State Boards of Nursing. The board must review a program if the institution's passing rate on the National Clinical Licensure Examination drops below the standard for 2 consecutive years. The board may take action to assist the program to return to compliance. Any program having its approval rescinded will have the right to reapply.

Section 8. Appropriates \$1 million during 2002-2003 to the Department of Health for nurse retention efforts and out-of-state recruitment by hospitals. The Department of Health must adopt rules establishing criteria for grant awards. To be eligible for a grant a hospital must have experienced an average vacancy rate that exceeds the national average among nursing positions during the preceding 12 months. The appropriated funds are subject to a one-for-one match from hospitals.

Section 9. Provides that the bill will take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Art. VII, s. 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Art. I, s. 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Art. III, s. 19(f) of the Florida Constitution.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Hospitals and other employers seeking to hire nurses would benefit from an increase in the number of licensed nurses.

C. Government Sector Impact:

The Sunshine Workforce Solution Grant Program would require funding for implementation.

The bill appropriates \$1 million from the General Revenue Fund to the Department of Health to make grants to hospitals for nurse retention and out-of-state recruitment activities during FY 2002-2003. The grants must be matched on a one-for-one basis by non-government funds.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None

VIII. Amendments:

None.