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**HOUSE OF REPRESENTATIVES
COMMITTEE ON
GENERAL EDUCATION
ANALYSIS**

BILL #: HB 355
RELATING TO: Public School Health Care Services
SPONSOR(S): Representatives Cusack, Joyner, Bendross-Mindingall, Brutus, & Richardson
TIED BILL(S): None.

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

- (1) GENERAL EDUCATION
 - (2) COUNCIL FOR LIFELONG LEARNING
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

HB 355 is designed as an incentive program to encourage persons within certain categories of licensed health care professionals to provide their services without charge to public schools. The health care professionals to whom this bill applies are: physicians, physician assistants, osteopathic physicians, advanced registered nurse practitioners, registered nurses, and licensed practical nurses.

Any active licensed health care professional who volunteers for at least eight hours per month per school year during the two-year period will be granted a waiver for payment of their licensing renewal fee. Any *retired* licensed health care professionals cited above will be eligible for the licensing renewal fee waiver if he or she volunteers for at least 40 hours per month per school year during the biennial licensing period.

In order for an applicant to become eligible for the program he or she must:

1. Be licensed to practice in the State of Florida in one of the specifically cited professions (this means that if the applicant is retired and with an inactive license, that person must activate his or her license); and
2. Submit to a fingerprint check by Florida Department of Law Enforcement (FDLE) for the purpose of conducting criminal history and background screening.

The Department of Education states, school districts could experience increased costs for administration of the program, including coordination of health care practitioners; supervision of volunteers; training the volunteers; and tracking the hours the volunteers work to document eligibility for license fee waivers. School districts may also experience an increase in insurance premiums related to liability coverage due to risks associated with volunteer health care practitioners. The fiscal impact is indeterminate but will depend on how many health care practitioners participate in the program.

According to the Department of Health, the fee waiver incentive may not be adequate as a recruitment and retention tool. Although the fee waiver may not be an attractive enough incentive to health care practitioners who are not currently volunteering their time in schools, it could result in current volunteers applying for the waiver; thus resulting in less revenue.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

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|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

This bill does not support the principles of less government because it requires the Department of Education and the Department of Health to supervise the administration of this program, and the bill provides for rulemaking authority.

B. PRESENT SITUATION:

Health Care Practices and Practitioners

Florida Statutes provides for the licensing of health care practitioners as follows:

- Physicians in Chapter 458, Florida Statutes;
- Osteopathic Physicians in Chapter 459, Florida Statutes;
- Physician Assistants in Chapters 458 and 459, Florida Statutes;
- Advanced Registered Nurse Practitioners in Chapter 464, Florida Statutes;
- Registered Nurses in Chapter 464, Florida Statutes; and
- Licensed Practical Nurses in Chapter 464, Florida Statutes.

Full Service Schools

Pursuant to s. 402.3026, F.S., the State Board of Education and the Department of Health must jointly establish full-service schools to serve students from schools that have a student population that has a high risk of needing medical and social services, based on the results of demographic evaluations. Full-service schools must integrate the services of the Department of Health that are critical to the continuity-of-care process. The Department of Health must provide services to these high-risk students through facilities established within the grounds of the school. Such services may include, without limitation, nutritional services, basic medical services, aid to dependent children, parenting skills, counseling for abused children, counseling for children at high risk for delinquent behavior and their parents, and adult education. Two programs that are part of full service schools are the Volunteer School Nurse Program and the Volunteer Health Care Provider Program.

The Volunteer School Nurse Program

According to the Department of Health, the Volunteer School Nurse Program was implemented in eight counties in 2001 and will expand to fourteen counties in 2002. In each of these counties, a county health department registered nurse, whose salary is paid for pursuant to the General Appropriations Act 2000-2001, is responsible for recruiting, training, orienting, supervising, and scheduling the volunteer nurses.

Volunteer Health Care Provider Program

The Volunteer Health Care Provider Program was established in 1992 by s. 766.1115, F.S. According to the Department of Health, this program has been successful in using volunteers to

increase access to health care services for the indigent. State sovereign immunity coverage for volunteers under this program has been a key to its success. However, this program relies on continuity in supervising, screening, and training volunteers by program staff. In most situations, a physician supervises the health care practitioners.

Comprehensive School Health Services Project

The Comprehensive School Health Services Project provides health services in schools with a high proportion of students at-risk and in need of medical services. This program serves every school in 17 of Florida's 67 counties, and 47 of Florida's counties have the program in at least one school. The Comprehensive School Health Service Project has one health care professional for every 2.05 schools and one health care professional for every 1,614 students.

Florida Volunteer Protection Act

Pursuant to s. 768.1355, F.S., any person who volunteers to perform any service for any nonprofit organization, including an officer or director of such organization, without compensation, except for reimbursement for actual expenses, must be considered an agent of such nonprofit organization when acting within the scope of any official duties performed under such volunteer services. Such person must incur no civil liability for any act or omission by such person which results in personal injury or property damage if: (1) the person was acting in good faith within the scope of any official duties performed under the volunteer service, and the person was acting as an ordinary reasonably prudent person would have acted under the same or similar circumstances; and (2) the injury or damage was not caused by any wanton or willful misconduct on the part of the person in the performance of his or her duties.

Sovereign Immunity

Pursuant to s. 768.28(9)(a), F.S., no officer, employee, or agent of the state or of any of its subdivisions must be held personally liable in tort or named as a party defendant in any action for any injury or damage suffered as a result of any act, event, or omission of action in the scope of her or his employment or function, unless the officer, employee, or agent acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

Background Screening Requirements

Pursuant to s. 381.0059(1)(a), F.S., any person who provides services under a school health plan must complete level 2 screening as provided in s. 435.04(1), F.S. Subsection 435.04(1), F.S., requires that all employees in positions designated by law as positions of trust or responsibility undergo security background investigations as a condition of employment or continued employment. The security and background checks must include, but not be limited to:

- Fingerprinting;
- Statewide criminal and juvenile records checks through the Florida Department of Law Enforcement (FDLE); and
- Federal criminal records checks through the Federal Bureau of Investigation (FBI), and may include local criminal records checks through local law enforcement agencies.

Health Care Practitioner/School/Student Ratios

In the 1999-2000 school year there were, in Florida's schools, a total of 2,375,196 students, of which 454,522 were Exceptional Student Education (ESE) students or medically complex students.

In 1999-2000 there were a total 2,148 in (Full-Time Equivalents) *advanced registered nurse* practitioners, *registered nurses*, licensed practical nurses and physician's assistant staffing non-medically complex students in public schools.

In 1999-2000 there were 371 health care professionals for the 454,522 medically complex students in Florida.

In Florida that year, according to the 1999-2000 State Summary of School Health Services, produced by the Florida Department of Health, the *registered nurse to student* ratio was 1:3,515 and the *registered nurse to school* ratio was 1:4.25. The National Association of School Nurses recommends one (1) *registered nurse* for every 750 students, and one (1) *registered nurse* for every 250 medically complex students.

C. EFFECT OF PROPOSED CHANGES:

HB 355 establishes an incentive program to encourage health care practitioners to provide services, without compensation, in public schools. This bill could increase the availability of licensed school health care practitioners at schools to perform school health services for students and reduce the ratio of students to health care practitioners.

The bill increases the supervisory duties for the Department of Education (DOE) and the Department of Health (DOH) by requiring the DOE and the DOH to be responsible for supervising the program and performing periodic reviews of the program. The DOE, in cooperation with the DOH, may adopt rules necessary to implement the proposed legislation and must develop forms to be completed and procedures to be followed by applicants and school personnel under the program.

The bill also requires the DOH, in cooperation with the DOE, to publicize the availability of the program and its benefits. Some additional costs may be associated with the publication of the program. Forms and procedures for implementing the program must be distributed to the district by June 1, 2002. Publication of the program must begin no later than June 1, 2002.

The bill requires school districts to pay for any increase in insurance premiums for liability protection for the health care practitioners participating in the program other than those employed by the school district. School districts will have to establish the structure under which the volunteer services will be provided. Each school district must make application forms and other required materials available to all public schools in the district. School principals must provide administrative supervision. Clinical supervision will be assigned to the school health coordinator who holds the appropriate credentials to provide professional supervision and assume responsibility for the volunteer's activities. As a result of these additional requirements, school districts may have additional costs. Although some additional costs may be associated with administering the program, these costs would not be as significant as those associated with adding full-time health care practitioners to the payroll.

According to the Department of Health (DOH), HB 355 creates a program under the Department of Education that duplicates and competes with two current programs, the Volunteer School Nurse Program and the Volunteer Health Care Provider Program. The DOH states that this bill could have a negative impact on these programs by offering the incentive of waiving the fee for biennial supervision required for the school program. The DOH further states that supervision for volunteer health care practitioners is well established through both medical and nursing infrastructures within the DOH and that the bill does not provide such structures and vests the supervisory responsibility directly with the school principal. The DOH believes supervision of health care practitioners by non-medical persons as identified in HB 355 creates a potential risk and may be in conflict with professional practice acts. They recommend this be reviewed by the affected professional licensing boards.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Creates s. 381.00593, F.S., the Public School Volunteer Health Care Practitioner Act, establishing an incentive program that encourages health care practitioners to provide their services without charge to public schools; providing for the waiver of the biennial licensure renewal fee for certain health care professionals; providing for administration of the program; and providing for rulemaking authority.

Section 2: Provides for timetables for completion of administrative actions.

Section 3: Provides this bill will take effect upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

According to the DOH, this bill could increase referrals to private physicians through early assessment and identification of health problems. Competition with the private sector could occur if a volunteer physician initiates treatment rather than referring a student to his or her own private physician.

D. FISCAL COMMENTS:

According to the DOH, the Medical Quality Assurance Division will be impacted by the loss of revenue from license renewal fees. The current biennial fees per health care practitioner are:

- Physician (MD) \$330
- Osteopathic physician \$400
- Physician assistant \$200
- Advanced registered nurse practitioner \$105
- Registered nurse \$ 55
- Licensed practical nurse \$ 55

The DOH states that at this point, it is difficult to estimate the extent of this impact, but even a relatively small decrease in revenues could jeopardize the ability of the boards to meet expenses.

According to the Division of Medical Quality Assurance (MQAT), the MQAT Fund is projected to have a cash balance of \$76,875 at June 30, 2003 with each subsequent year projected to be in deficit status in excess of \$10 million. This bill would result in an annual loss of revenues estimated at \$167,564, assuming that 1% of the eligible practitioners participate in the program. At this level of participation (or even a smaller percentage), the program proposed in this bill would eliminate the projected cash balance at June 30, 2003.

The Department of Education states, school districts could experience increased costs for administration of the program, including coordination of health care practitioners; supervision of volunteers; training the volunteers; and tracking the hours the volunteers work to document eligibility for license fee waivers. School districts may also experience an increase in insurance premiums related to liability coverage due to risks associated with volunteer health care practitioners.

The fiscal impact is indeterminate but will depend on how many health care practitioners participate in the program.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities 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:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

This bill grants additional rule-making authority to the Department of Education, in cooperation with the Department of Health.

C. OTHER COMMENTS:

The time required for the DOE to complete and distribute the forms to the districts could be as short as four to six weeks from the time the bill becomes law. Since the DOE has to adopt rules in cooperation with the DOH, the four to six weeks allowed in the bill present a very tight time schedule.

The Department of Health reports, in order to receive the biennial license renewal fee waiver, health care practitioners who are actively licensed must volunteer a minimum of eight hour per month per school year, and health care practitioners who are retired must volunteer forty hours per month per school year. If these requirements are not met, there is no waiver of fee. Thus, the fee waiver incentive may not be adequate as a recruitment and retention tool. The DOH further states, that even though the fee waiver may not be an attractive enough incentive to health care practitioners who are not currently volunteering their time in schools, it could result in a loss of services if practitioners who provide free services opt to devote their time to the proposed rather than the existing programs.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON GENERAL EDUCATION:

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