

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 2005 (PCB AP-04-35) *Revised Analysis* Trauma Care
SPONSOR(S): Appropriations
TIED BILLS: **IDEN./SIM. BILLS:** SB 1762

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Appropriations	39 Y, 1 N	Massengale	Baker
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

The bill makes various technical changes and deletes obsolete language and dates from part II, chapter 395, F.S., relating to trauma care. Legislative findings conferring duties on the Department of Health (DOH) relating to trauma care are revised. Definitions for trauma centers are revised to conform to DOH's approval process to verify that the trauma centers have met specified standards.

The bill also deletes obsolete language relating to the reimbursement of trauma centers, which specifies a funding formula that has never been implemented. In lieu of the funding formula, all provisional trauma centers and trauma centers shall be considered eligible to receive equal payments when state funds are specifically appropriated in the General Appropriations Act. The bill also repeals the provisions related to the Trauma Services Trust Fund.

The bill also requires the boundaries of trauma regions administered by the Department of Health to be coterminous with the boundaries of the regional domestic security task force regions established within the Florida Department of Law Enforcement. Exceptions are provided for the delivery of trauma services by or in coordination with a trauma agency established before July 1, 2004, which may continue in accordance with public and private agreements and operational procedures entered into as provided in s. 395.401, F.S.

The bill also requires DOH to complete an assessment of the effectiveness of the existing trauma system and report its findings to the Governor and Legislature by December 1, 2004. The bill also requires DOH to make recommendations in a report to the Governor and Legislature on an effective way to structure a grant program for the trauma system.

The bill provides an effective date of July 1, 2004.

PLEASE SEE AMENDMENT SECTION ON PAGE 7 FOR DESCRIPTION OF STRIKE ALL AMENDMENT THAT BECAME HB 2005.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h2005a.ap.doc
DATE: April 28, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

B. EFFECT OF PROPOSED CHANGES:

Present Situation

The regulation of trauma centers in Florida is established under chapter 395, Florida Statutes. Trauma centers treat individuals who have incurred a single or multiple injuries because of blunt or penetrating means or burns, and who require immediate medical intervention or treatment. To provide timely access to care, trauma standards are based on the golden hour principle, which is generally defined by emergency medical personnel as the first 60 minutes of intensive care during which it is possible to save the life of an injured or traumatized person.

A report issued in 1999 by the Department of Health (DOH) led to significant statutory changes to address the lack of timely access to trauma care because of the state’s fragmented trauma system. DOH was assigned the responsibility for planning and establishing a statewide inclusive system for trauma care.

As part of the state trauma system plan, section 395.4015, F.S., requires DOH to establish trauma regions that cover all geographical areas of the state. These regions may serve as the basis for the development of department-approved local or regional trauma plans. These regions may be defined by DOH based on, but not limited to the following: geographical considerations that ensure rapid access to trauma care by patients, historical patterns of patient referral and transfer in an area, inventories of available trauma care resources, predicted population growth characteristics, and medically appropriate ground and air travel times.

Pursuant to section 395.402, F.S., Florida is divided into 19 “trauma service areas.” A trauma service area is determined based on population density and an ability to respond to a specified number of patients in a trauma center environment. For purposes of medical response time, the trauma service area should have at least one Level I or Level II trauma center (defined in s. 395.4001, F.S.), and DOH is required to allocate, by rule, the number of trauma centers for each trauma service area. There are six Level I trauma centers that are also pediatric trauma centers, thirteen Level II centers (of which five are also pediatric centers), and one pediatric trauma center.

There are provisions in chapter 395, F.S., which are outdated. In some cases, dates have passed and are no longer relevant. Terminology regarding verification of trauma centers is no longer consistent with DOH’s approval of trauma centers.

Prior to 1998, there was no specific funding for trauma centers. Earlier efforts in 1990-1991 were unsuccessful because of a revenue shortfall and the resources appropriated were eliminated from the state budget. The elaborate funding formula based on the provision of charity care by trauma centers outlined in section 395.403, F.S., has not been implemented.

Proposed Changes

The bill amends s. 395.4001, F.S., to change the definition of “charity care” or “uncompensated trauma care” to align with the disproportionate share definitions under chapter 409, F.S. The definitions of “Level I trauma center,” “Level II trauma center,” and “Pediatric trauma referral center” are updated to conform to DOH’s process for verifying that such trauma centers have met specified requirements to operate as a trauma center and have been approved by the department. References to “state-approved” trauma centers and the verification process are deleted. “Provisional trauma center” is defined to mean a hospital that has been verified by DOH to be in substantial compliance with the requirements for verification under s. 395.4025, F.S., and has been approved by DOH to operate as a provisional Level I trauma center, Level II trauma center, or pediatric trauma center. Definitions for “state-approved trauma center” and “state-sponsored trauma center” are eliminated. To conform to DOH’s approval process for trauma centers, the definition for “trauma center” is revised to mean a hospital that has been verified by DOH to be in substantial compliance with requirements for approval by DOH and has been approved by DOH to operate as a Level I trauma center, Level II trauma center, or pediatric trauma center.

The bill also amends s. 395.401, F.S., to eliminate obsolete language and update provisions to conform to DOH’s approval process for verifying that trauma centers have met specified requirements to operate as a trauma center and have been approved by the department. Requirements for the elements of local and regional trauma plans are updated to conform to the revised definitions of the various trauma centers in the bill.

In addition, the bill amends s. 395.4015, F.S., relating to state regional trauma planning, to require the boundaries of trauma regions administered by the Department of Health to be coterminous with the boundaries of the regional domestic security task forces established within the Florida Department of Law Enforcement (based on a recommendation in a Senate interim study¹). Exceptions are provided for the delivery of trauma services by or in coordination with a trauma agency established before July 1, 2004, which may continue in accordance with public and private agreements and operational procedures entered into as provided in s. 395.401, F.S.

The bill also amends s. 395.402, F.S., to establish a minimum capacity for treatment of patients in Levels I and II trauma centers. The bill also requires DOH to complete an assessment of the effectiveness of the existing trauma system and report its findings to the Governor and Legislature by December 1, 2004. The assessment shall include:

- Consideration of aligning trauma service areas within the trauma region boundaries as established July 2004.
- Review of the number and level of trauma centers needed for each trauma service area to provide a statewide, integrated trauma system.
- Establishment of criteria for determining the number and level of trauma centers needed to serve the population in a defined trauma service area or region.
- Consideration of a criterion within trauma center verification standards based on the number of trauma victims served within a service area.
- Review of the Regional Domestic Security Task Force structure to determine whether integrating the trauma system planning with interagency regional emergency and disaster planning efforts is feasible and to identify any duplication of effort between the two entities.

In conducting the initial assessment and subsequent annual reviews, DOH is required to consider the following:

- The recommendations made as a part of the regional trauma system plans submitted by regional trauma agencies.
- Stakeholder recommendations.

¹ See Hospital Response Capacity (December 2003), Report Number 2004-148, Senate Committee on Home Defense, Public Security and Ports.

- Geographical composition of an area to ensure rapid access to trauma care.
- Historical patterns of patient referral and transfer in an area.
- Inventories of available trauma care resources, including professional medical staff.
- Population growth characteristics.
- Transportation capabilities, including ground and air transport.
- Medically appropriate ground and air travel times.
- Recommendations of the Regional Domestic Security Task Force.
- The actual number of trauma victims currently being served by each trauma center.
- Other appropriate criteria.

The department is also required to annually review the assignment of the 67 counties to trauma service areas. If a trauma service area is located within boundaries of more than one trauma region, the trauma service area's needs, response capability and system requirements are to be considered by each trauma region served by that trauma service area in its regional system plan. Until DOH completes the December 2004 assessment, the assignment of counties shall remain as established in the section.

Furthermore, the bill amends legislative intent in section 395.40, F.S., to require an update to the state trauma system plan by December 2003 and annually thereafter.

The bill also amends s. 395.4025, F.S., relating to requirements for DOH's approval of trauma centers, to delete obsolete references to dates and the 1990 Report and Proposal for Funding State-Sponsored Trauma Centers, and to "state-sponsored" trauma centers and the verification process, to conform to other changes in the bill. The trauma center approval process by DOH is revised to authorize DOH to consider applications from hospitals seeking selection as a trauma center, including those current trauma centers that seek a change or redesignation in approval status as a trauma center.

The bill also amends s. 395.403, F.S, to delete references to "state-sponsored" or "state-approved" trauma centers and the verification process, to conform to other changes in the bill. Obsolete language relating to the reimbursement of trauma centers that specifies a funding formula that has never been implemented is deleted. In lieu of the funding formula, all provisional trauma centers and trauma centers shall be considered eligible to receive state funding in equal amounts when state funds are specifically appropriated in the General Appropriations Act. The bill also requires DOH to make recommendations on the most effective way to structure a grant program for the trauma system. Consideration should include incentives for new trauma centers where needed and funding mechanisms to maintain effective trauma care in areas served by existing trauma centers. The recommendations are due in a report to the Governor and Legislature by December 1, 2004.

The bill repeals s. 395.4035, F.S., relating to the Trauma Services Trust Fund.

Finally, the bill amends section 401.24, F.S., to delete the term "state approved" when referencing trauma centers and pediatric trauma centers in the emergency medical services state plan.

C. SECTION DIRECTORY:

Section 1 amends s. 395.4001, F.S., revising definitions.

Section 2 amends s. 395.401, F.S., revising components for local and regional trauma services system plans, and correcting references to the term "trauma center."

Section 3 amends s. 395.4015, F.S., requiring that trauma regions be coterminous with the regional domestic security task forces established with the Department of Law Enforcement; providing an exception and removing other requirements for such boundaries; and deleting the authority to accept state trauma system plan components developed by other entities.

Section 4 amends s. 395.402, F.S., providing additional legislative intent; providing a treatment capacity for certain trauma centers; providing that current trauma center areas shall be used until the Department of Health completes an assessment of the trauma system; providing guidelines for such assessment; and requiring a report of the assessment to the Legislature and Governor by December 1, 2004.

Section 5 amends s. 395.40, F.S., requiring an updated trauma system plan by December 2004 and annually thereafter.

Section 6 amends s. 395.4025, F.S., revising requirements for the Department of health's development of a state trauma system plan; correcting references to the term "trauma center"; revising requirements for the department's approval and verification of a facility as a trauma center; and revising the requirements for notice that a hospital must give before it terminates or substantially reduces trauma services.

Section 7 amends s. 395.403, F.S., specifying eligibility of trauma centers and provisional trauma centers for state funds specifically appropriated in the General Appropriations Act; providing for a consideration of a grant program; and requiring a report to the Legislature and Governor.

Section 8 repeals s. 395.4035, F.S., relating to the Trauma Services Trust Fund.

Section 9 amends c. 401.24, F.S., relating to the emergency services state plan.

Section 10 provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Not applicable.

2. Expenditures:

According to the Department of Health, the assessment of the trauma system required to be submitted to the Governor and Legislature will cost approximately \$400,000.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Contingent on an appropriation in the General Appropriations Act, trauma centers eligible for funding will receive one-time payments in equal amounts to recover some portion of capital investments made by the hospital to establish trauma service. In addition, each new trauma center provisionally-approved by DOH after July 1, 2004, will receive this one-time payment. If a trauma center or provisional trauma center does maintain its trauma center status for any state fiscal year in which it receives state funding, the trauma center or provisional trauma center must repay the state for the portion of the year during which it was not a trauma center.

D. FISCAL COMMENTS:

Although the elaborate funding formula based on the provision of charity care by trauma centers outlined in section 395.403, F.S., has not been implemented, for the past three years the funding for trauma care beyond the normal reimbursements from Medicaid, other third party payers and private payers has come from the Medicaid program in the form of special nonrecurring payments under the Upper Payment Limit program—\$44 million in the last three years. In addition to the UPL reimbursements, Medicaid estimates they paid \$97.7 million during 2002 in fee-for-service payments for trauma-related diagnoses.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None

B. RULE-MAKING AUTHORITY:

The Department of Health has sufficient rulemaking authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Department of Health indicated it will be difficult to complete the assessment of the trauma system by the December 1, 2004 deadline.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On April 14, 2004, the Subcommittee on Health Appropriations adopted eight amendments to the bill, and then recommended the bill favorably to the Committee on Appropriations. The amendments include the following:

Amendment #1—Requires a hearing for infractions that result in a bodily injury; requires a civil fine of \$1,000 and a mandatory six-month suspension of the driver's license if the infraction resulted in a death; designates one million dollars of the money received from the mandatory hearings to ABATE of Florida, Inc., for motorcycle safety education; designates the remaining funds received from the mandatory hearings to the Department of Health's Administrative Trust Fund; creates statutory rules governing trauma center preparedness payments.

Amendment #2—Removes the repeal of the Trauma Services Trust Fund; creates the driver's responsibility program; directs the Department of Highway Safety and Motor Vehicles to annually impose specified monetary penalties against motor vehicle licensees who have violated certain laws within the previous 36 months; directs the department to remit all penalties to the Department of Health's Administrative Trust Fund; provides for the collection of additional funds for certain traffic violations.

Amendment #3—Allows a board of county commissioners to require, by ordinance, the collection of an additional amount of up to \$7 with each traffic penalty. These additional funds shall be used for the unreimbursed costs incurred by state-approved trauma centers.

Amendment #4—Removes distribution of payments language from the bill that is in Amendment #1.

Amendment #5—Amends s. 212.055, F.S., to allow small counties to levy the Indigent Care & Trauma Center Surtax. Specifically, the amendment allows counties with less than 800,000 residents to levy the Indigent Care & Trauma Center Surtax at a rate not to exceed 0.25 percent for the funding of trauma centers licensed pursuant to chapter 395, F.S.

Amendment #6—Provides that the fine for failing to wear a seat belt shall be increased by \$15. These funds shall be used to fund trauma services in the state.

Amendment #7—Requires the department to include in the annual report the county of residency of each trauma victim served by each trauma center and what entity paid for the trauma victim's services.

Amendment #8—Provides that all federal funds received as a result of the primary enforcement of the seat belt law in House Bill 15 or similar legislation shall be used to fund trauma services in the state.

On April 23, 2004, the Committee on Appropriations adopted a strike-all amendment to PCB AP-04-35. The strike all made the traveling amendment out of order. The strike-all amendment did the following.

Section 1.

Section 212.055, F.S., which authorizes counties to impose local discretionary sales surtaxes on all transactions occurring in the county subject to the state tax imposed on sales. Three of these sales taxes directly pertain to health care services. The strike-all amendment allows small counties with less than 800,000 residents to levy the Indigent Care & Trauma Center Surtax at a rate not to exceed 0.25 percent, by voter referendum, for the funding of trauma centers licensed pursuant to ch. 395, F.S.

Section 2.

Amends 395.40, F.S.; Legislative findings and intent by clarifying the types of facilities that should consult on care of trauma victims.

Section 3.

Amends 395.4001, the definitions of charity care to specify charity care includes the trauma care provided by a hospital which is uncompensated, excluding the restricted or unrestricted revenues provided to a hospital by local governments. A definition of "Provisional Trauma Center" is created. This language is in the original PCB.

Section 4.

Amends 395.401, Trauma services system plans. Provides conforming language and deletes obsolete language.

Section 5.

Amends s. 395.4015, F.S.. Requires the boundaries of the trauma regions administered by the Department of Health be coterminous with the boundaries of the regional domestic security task forces established within the Department of Law Enforcement; and authorizes the continuation of trauma services by certain agencies in accordance with established agreements and procedures. This language is in the original PCB.

Section 6.

Amends 395.402, Trauma service areas. Requires the Department of Health to provide a study of the existing trauma system; with specified criteria and requires the study to make recommendations to identify a continued revenue source that includes a local participation element and a formula for the distribution of funds to trauma centers.

Section 7.

Amends 395.4025, Trauma centers; selection. Requires the department to adopt rules on procedures for providing notification of the termination of trauma services, and specifies that the termination notice must be provided within 180 days. Adds moratorium on new trauma center applicants until review completed, except for centers in areas where no center currently exists.

Section 8.

Amends 395.403, Reimbursement of trauma centers

Specifies in statute that effective July 1, 2004, trauma centers will receive an equal one-time payment in recognition of their capital investment and to trauma centers approved as of July 1, with a lesser payment to provisional centers with an application submitted as of April 1, 2004. The existing funding language is removed to conform to new provisions within this act. The old funding formula was never utilized due to the lack of funding through the general appropriations act.

Trauma centers may request that payments be used as intergovernmental transfer funds, which may increase funding through federal dollars from the Medicaid programs.

Section 9.

Amends 401.24, Emergency medical services state plan. This is identical to the original PCB. .

Section 10.

An appropriation of \$300,000 is made to the Department of Health to contract with a Florida university to conduct the required assessment of the state trauma system.

Section 11.

An appropriation of \$20,700,000 is made for payments of \$1 million to each existing trauma center and one \$700,000 payment to a hospital with a pending application as of April, 2004.

The strike-all amendment does not remove the Trauma Services Trust Fund as found in the original PCB.