HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1125 CS — Studies on Health Care
SPONSOR(S): Bogdanoff
TIED BILLS: — **IDEN./SIM. BILLS:** SB 662

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Health Care Regulation Committee	8 Y, 0 N, w/CS	Bell	Mitchell
2) Transportation & Economic Development Appropriations Committee	(W/D)		
3) Health & Families Council		Bell	Moore
4)			
5)			

SUMMARY ANALYSIS

HB 1125 CS addresses three different issues in Florida. First, the bill addresses the damage many Florida hospitals faced during the severe 2004 hurricane season. Second, the bill addresses the growing cost of health insurance and the rising number of uninsured in Florida. Third, the bill addresses the interstate Nurse Licensure Compact.

Hospital Hurricane Study
The bill creates a commission to study coastal hospitals that serve indigent populations and that sustained significant damage to their facilities during the 2004 hurricane season. The bill establishes the composition of the commission and provides for reimbursement for per diem and travel expenses of its members. The commission must identify all licensed hospitals serving indigent populations that are not able to comply with the Florida Building Code (FBC), that are located within 10 miles of the coastline, and that are located within a designated flood zone. The commission must make recommendations that will allow these facilities to find alternative methods of complying with the FBC including exemption from the certificate-of-need (CON) process for the relocation of licensed beds and the allowance of satellite beds for use in the future.

Health Insurance Study
The bill creates a 13 member health insurance plan study group to examine issues related to high deductible health insurance plans, including health savings account and reimbursement arrangements, the impact of these insurance plans on access to care and on hospitals, including the ability of hospitals to collect copayments, the assignment of benefit attestations, the standardization of subscriber identification cards, and standardization of claim edits.

Nurse Licensure Compact Study
The bill directs the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct a study to evaluate whether the State of Florida should join the Nurse Licensure Compact. The study's scope shall include but not be limited to, identifying the potential impact on the state's nursing shortage, benefits to the state, implementation barriers, and fiscal impact. OPPAGA is required to submit a report to the President of the Senate and the Speaker of the House by February 1, 2006.

HB 1125 CS will take effect upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government – This bill creates a study commission to study costal hospitals that sustained significant damage to their facilities during the 2004 hurricane season. The commission will be funded through existing agency funds. The bill creates a health insurance study group to examine issues related to high deductible health insurance plans. The health insurance study group will cost the State of Florida $210,600.

Maintain Public Security – The outcome of the hurricane hospital study may increase the quality and availability of hospital services in emergency situations.

B. EFFECT OF PROPOSED CHANGES:

HB 1125 CS addresses three different issues in Florida. First, the bill addresses the damage many Florida hospitals faced during the severe 2004 hurricane season. Second, the bill addresses the growing cost of health insurance and the rising number of uninsured in Florida. Third, the bill addresses the interstate Nurse Licensure Compact.

Hurricane Hospital Study

The bill creates a study commission to address critical issues relating to licensed hospitals that serve indigent populations and that sustained significant damage to their facilities during the 2004 hurricane season.

The commission must identify:

- All hospitals that are currently not able to comply with the provisions of the Florida Building Code as defined in s. 553, F.S., and any associated administrative rules;
- Hospitals that are located within 10 miles of the coastline; and
- Hospitals that are located in a designated flood zone.

The study commission must make recommendations for allowing these hospitals to find alternative methods of renovating their existing facilities in order to meet the requirements of the Florida Building Code (FBC).

The commission must review all alternative that could be made available to those hospitals when renovation is not financially practical or structurally feasible. The commission must review all existing laws and agency regulations and recommend needed changes to address these issues.

The commission must meet by September 1, 2005, and shall submit recommendations, including recommendations for statutory changes, to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2006. Such recommendations shall also include an evaluation of whether grant funds should be made available to assist hospitals with the cost of reconstructing existing facilities.

The study commission must be staffed by the Department of Community Affairs and shall include:

- The Secretary of Community Affairs, or his or her designee;
- The Director of the Division of Emergency Management, or his or her designee;
- The Secretary of Health Care Administration, or his or her designee;
- Four representative of hospitals from regions of the state where hospitals experienced significant hurricane damage during 2004, with two members appointed by the Speaker of the House of Representatives;
- The Secretary of Health, or his or her designee; and

- A director of county emergency management, selected by the Florida Emergency Preparedness Association.

Members of the study commission will serve without remuneration, but are entitled to reimbursement in accordance with s. 112.061, F.S., for per diem and travel expenses incurred in performing their duties in accordance with this section.

Health Insurance Study

The bill creates an 13 member health insurance plan study group to be composed of: (a) three representatives of employers offering high deductible health insurance plans to their employees, one each shall be appointed by the Florida Chamber of Commerce, the National Federation of Independent Business, and Associated Industries of Florida; (b) three representatives of the commercial health plans, to be appointed by America's Health Insurance Plans; (c) three representatives of hospitals, to be appointed by the Florida Hospital Association; (d) two physician representatives, one to be appointed by the Florida Medical Association and one to be appointed by the Florida Osteopathic Medical Association; and (e) the Secretary of the Agency for Health Care Administration and the Director of the Office of Insurance Regulation, who shall serve as co-chairs.

The study group is required to study the following issues related to high deductible health insurance plans, including, but no limited to, health savings accounts and health reimbursement arrangements:

- The impact of high deductibles on access to health care services and pharmaceutical benefits.
- The impact on high deductibles on utilization of health care services and overutilization of health care services.
- The impact on hospitals' inability to collect deductibles and copayments.
- The ability of hospitals and insured to determine, prior to service delivery, the level of deductible and copayment required of the insured.
- The methods to assist hospitals and insureds to determine prior to service delivery, the level of deductible and copayment required of the insured in meeting annual deductible requirements and any subsequent copayments.
- The methods to assist hospitals in the collection of deductibles and copayments, including electronic payments.
- Alternative approaches to the collection of deductibles and copayments when either the amounts of patient financial responsibility are unknown in advance or there are no funds electronically available from the patient to pay for the deductible and any associated copayment.

The study group shall also study the following issues:

- The assignment of benefits attestations and contract provisions which nullify the attestations of insureds.
- The standardization of insured or subscriber identifications cards.
- The standardization of claim edits or insuring that claim edits comply with nationally recognized editing guidelines.
- The provision of comparative cost information to insureds and subscribers.

The study group is required to meet by August 1, 2005, and must submit recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2006.

The bill does not specify staffing of the study group nor contain any appropriation for any expenses incurred by the study group.

Nurse Compact Study

The bill directs the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct a study to evaluate whether the State of Florida should join the Nurse Licensure Compact. The study's scope shall include but not be limited to:

- Identifying the potential impact on the state's nursing shortage;
- Benefits to the state;
- Implementation barriers; and
- Fiscal Impact.

OPPAGA is required to submit a report to the President of the Senate and the Speaker of the House by February 1, 2006.

HB 1125 with CS will take effect upon becoming a law.

BACKGROUND HURRICANES

The Hurricane Season of 2004

Every county in Florida was affected by a hurricane or tropical storm, or was under a declared state of emergency because of such storms, in 2004. Counties in the South Central part of the state suffered direct hits from three hurricanes, and two coastal Panhandle counties received extensive damage from a direct hit of a powerful hurricane accompanied by surge.

A survey by the Florida Hospital Association (FHA) showed 70 hospitals experienced damages from the four hurricanes—Charley (August 13, 2004); Frances (September 5, 2004); Ivan (September 16, 2004); and Jeanne (September 25, 2004). Of these 70 hospitals, 23 had damage from two storms and 11 facilities were damaged by three of the storms.1

Hospitals reported significant damages to roofs, buildings, windows, equipment, and damages from flooding. Damages to hospital roofs totaled approximately $15 million. Damages to the building, excluding the roof, totaled $8.8 million. Water damage, caused by flooding and water intrusion, was estimated to cost $5.2 million. Damages to equipment, windows and other facility damages totaled $5.4 million. Other damages totaled $4.9 million, including debris removal, damage to signage, landscaping, fencing, screens, canopies and awnings, and damage to compressors.[2]

At the time of the FHA survey, many hospitals were still negotiating with their insurance companies on the damages and the amounts that would be covered. Thus, accurate damage estimates and insurance reimbursements were not available at the time of the survey. Based on data from about half of the participating hospitals, FHA estimated that approximately 45 percent of the repair cost would be covered by insurance.

Hospitals Serving Indigent Populations

Rule 59C-1.030, F.A.C., sets forth the health care access criteria to be used in the review of a CON application. These criteria include the extent to which all residents of the district, and in particular low income persons, racial and ethnic minorities, women, handicapped persons, other underserved groups and the elderly, are likely to have access to the facility's services and the extent to which Medicare, Medicaid and medically indigent patients are served by the applicant. In any case where it is determined that an approved project does not satisfy the health care access criteria, AHCA may, if it approves the application, impose the condition that the applicant must take affirmative steps to meet those criteria. While all hospitals are required to serve indigent patients, some serve far more than others because of their location.

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[1] Eye of the Storm: Impact of the 2004 Hurricane Season on Florida Hospitals, March 2005, Florida Hospital Association.

[2] Eye of the Storm: Impact of the 2004 Hurricane Season on Florida Hospitals, March 2005, Florida Hospital Association.

The Florida Building Code (FBC)
Part four of chapter 553, F.S., creates the Florida Building Commission and requires the commission to adopt by rule the Florida Building Code (FBC). Under s. 553.73, F.S, the FBC must contain or incorporate by reference, all laws and rules which pertain to and govern the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and enforcement of such laws and rules, except as otherwise provided in that section. Existing hospitals are required to comply with the building code under which they were constructed. Only new facilities and renovations or additions to existing facilities must meet the current requirements of the FBC.

BACKGROUND NURSE COMPACT

Nurse Licensure Compact
The Nurse Licensure Compact was developed by the National Council of State Boards of Nursing. Several states have enacted the Nurse Licensure Compact, which allows interstate practice for registered nurses, licensed nurses, or vocational nurses. Under the compact, a nurse, whose primary state of residence is a compact state, will be issued a license by that state and will no longer need an additional license to practice in another compact state. Eighteen states have implemented the Nurse Licensure Compact as of December, 2004, and two other states have enacted the compact but have not yet implemented it.[3] The Florida Board of Nursing held a public workshop on the Nurse Licensure Compact in August, 2003. The board authorized a comprehensive financial and legislative study of the compact, as well as proposed implementation legislation for consideration during the Regular Legislative Session in 2005.

Compacts Between States
An interstate compact is a voluntary agreement between two or more states designed to meet common problems of the parties concerned.[4] Compacts are contracts between states. Pursuant to Article I, Section 10 of the United States Constitution “no state shall, without the consent of Congress, enter into any agreement or compact with another state.” Those compacts that affect a power delegated to the federal government or that alter the political balance within the federal system require the consent of Congress.[5] States are under no obligation to recognize licenses or professions issued by other states since the licenses issued by one state are not extraterritorial and no rule of comity requires a state to grant such a license because a person has been authorized to practice in another state.

A compact may only be amended or terminated in accordance with the instrument or by mutual consent of the parties to the compact by the adoption of identical substantive provisions.[6] A violation of a compact is subject to federal judicial remedy similar to an action for a breach of contract. Compacts require member states to forfeit individual sovereignty. Compacts are binding state law and any state law in contradiction or conflict with the compact is unconstitutional unless the state that is a party to the compact reserves that power. The terms of the compact take precedence over state statutes and state law “even to the extent that a compact can take precedence over a state constitutional provision.”[7] The United States Supreme Court has held that a state court cannot declare an interstate compact to be invalid on state constitutional grounds without subjecting that normally unreviewable decision of state

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[3] Nurse Licensure Compact States include: Arizona, Arkansas, Delaware, Idaho, Iowa, Maine, Maryland, Mississippi, Nebraska, New Mexico, North Carolina, North Dakota, South Dakota, Tennessee, Texas, Utah, Virginia, and Wisconsin. New Jersey and Indiana have enacted legislation recognizing the compact but have not yet implemented the compact. Source: The Florida Department of Health, Board of Nursing. Additional information regarding the Nurse Licensure Compact is available from the National Council of State Boards of Nursing at [www.ncsbn.org].
[4] *Black’s Law Dictionary Abridged Fifth* Edition (1983).
[5] See *Virginia v. Tennessee*, 148 U.S. 503 (1893).
[6] See “Interstate Compacts, 2004” at the Council of State Government’s website [http://www.csg.org/].
[7] Id. See also *McComb v. Wambaugh*, 934 F.2d 474, 479 (3rd Cir. 1991) and *Washington Metropolitan Area Transit Authority v. One Parcel of Land in Montgomery County, Maryland*, 706 F.2d 1312, 1319 (4th Cir. 1983).

law to further Supreme Court review in order to protect the federal interest and the interests of other state signatories.[8]

Nursing Licensure in Florida

Part I, ch. 464, F.S., provides for the regulation of the practice of nursing in Florida. To become licensed as a practical or registered nurse in Florida, an applicant must pass a national licensing examination developed by the National Council of State Boards of Nursing (NCSBN) or a similar national organization. To sit for the examination in Florida, an applicant must complete an application and pay the Florida Department of Health (DOH) specified fees. The applicant must provide sufficient information for a statewide criminal records check through the Florida Department of Law Enforcement; be in good mental and physical health; have a high school diploma or the equivalent; have completed the requirements of a Florida Board of Nursing approved nursing program for licensed practical or registered nurses, or the practical or professional nursing education equivalency; and have the ability to communicate in English.

Before applying for examination, any convicted felon must obtain a restoration of his or her civil rights in order to become eligible to sit for the examination. If an applicant has been convicted or found guilty of, or has entered a plea of nolo contendere to, regardless of adjudication, any offense other than a minor traffic violation, the applicant must submit arrest and certified court records stating the nature of the offense and final disposition of the case so that a determination can be made by the Florida Board of Nursing whether the offense relates to the practice of nursing.

Once the Florida Board of Nursing has certified an applicant to take the examination, the applicant must submit a letter of authorization from the board and pay the appropriate fees to the National Council of State Boards of Nursing examination vendor to sit for the computerized national nursing examination (NCLEX-PN®). An applicant is eligible to sit for the license examination up to three consecutive times. After the third failed examination, the applicant must complete a Florida Board of Nursing remedial course before he or she may be approved for reexamination up to three additional times before the applicant is required to retake remediation. The applicant must apply for reexamination within 6 months after completion of remediation.

The Florida Board of Nursing also provides licensure by endorsement requirements for nurses who are licensed in other jurisdictions to become licensed to practice nursing in Florida. DOH will issue a license to practice practical or professional nursing to an applicant who pays the appropriate application fees and costs for a criminal background check and who holds a valid license to practice professional or practical nursing in another state or territory of the United States, if when the applicant secured his or her original license, the requirements for licensure were substantially equivalent to or more stringent than those existing in Florida at that time. The burden of proof is on the applicant to prove fitness. In addition, the applicant must have successfully completed a state, regional, or national examination which is substantially equivalent to, or more stringent than, the examination given by DOH.

A nurse who applies for licensure for endorsement in Florida and who is relocating to Florida due to his or her military-connected spouse's official military orders, and who is licensed in another state that is a member of the Nurse Licensure Compact, is deemed to have satisfied licensure requirements to practice nursing in Florida upon submission of the appropriate application and fees and completion of a criminal background check.

An alternative licensure path allows nurses to become licensed without having to show that they have completed an equivalent examination. Under the alternative licensure path, licensure by endorsement applicants may become licensed without completing an equivalent examination if the applicant has actively practiced nursing in another state, jurisdiction, or territory of the United States for 2 of the preceding 3 years without having his or her license acted against. Under this alternative licensure path,

[8] *West Virginia ex. rel. Dyer v. Sims*, 341 U.S. 22, 71 S.Ct. 557, 95 L.Ed. 713 (1951).

the applicant must complete, within 6 months after licensure, a Florida laws and rules course approved by the Florida Board of Nursing.

Section 464.022, F.S., provides an exception to the Nurse Practice Act to any nurse currently licensed in another state or territory of the United States to allow that nurse to perform nursing in Florida for a period of 60 days after the nurse has furnished to his or her employer satisfactory evidence of current licensure in another state or territory and has submitted proper application and fees to the Florida Board of Nursing for licensure before employment. If the nurse licensed in another state or territory is relocated to Florida pursuant to his or her military-connected spouse's official military orders, this period must be 120 days after the nurse has furnished to his or her employer satisfactory evidence of current licensure in another state or territory, and has submitted the appropriate application and fees to the Florida Board of Nursing.

Health Care Practitioner Disciplinary Procedures

Section 456.073, F.S., sets forth procedures Department of Health and regulatory boards must follow in order to conduct disciplinary proceedings against practitioners under its jurisdiction. The department, for the boards under its jurisdiction, must investigate all written complaints filed with it that are legally sufficient. Complaints are legally sufficient if they contain facts, which, if true, show that a licensee has violated any applicable regulations governing the licensee's profession or occupation. Even if the original complainant withdraws or otherwise indicates a desire that the complaint not be investigated or prosecuted to its completion, the department at its discretion may continue its investigation of the complaint. The department may investigate anonymous, written complaints or complaints filed by confidential informants if the complaints are legally sufficient and the department has reason to believe after a preliminary inquiry that the alleged violations are true. If the department has reasonable cause to believe that a licensee has violated any applicable regulations governing the licensee's profession, it may initiate an investigation on its own.

Emergency Suspension of a License

Section 120.60(6), F.S., authorizes an agency to take emergency action against a license if the agency finds that immediate serious danger to the public health, safety, or welfare requires emergency suspension, restriction, or limitation of a license.[9] The agency may take such action by any procedure that is fair under the circumstances if: the procedure provides at least the same procedural protection as is given by other statutes, the State Constitution, or the United States Constitution; the agency takes only that action necessary to protect the public interest under the emergency procedure; and the agency states in writing at the time of, or prior to, its action the specific facts and reasons for finding an immediate danger to the public health, safety, or welfare and its reasons for concluding that the procedure used is fair under the circumstances. The agency's findings of immediate danger, necessity, and procedural fairness are judicially reviewable.[10] Summary suspension, restriction, or limitation may be ordered, but a suspension or revocation proceeding under ss. 120.569 and 120.57, F.S., must also be promptly instituted and acted upon.

BACKGROUND HEALTH INSURANCE

The Uninsured in Florida

The Agency for Health Care Administration (AHCA) is created in s. 20.42, F.S., and is directed by law to serve as the state's chief health policy and planning entity. In 1998, the Legislature directed AHCA to gather data for the then newly-created Florida Health Insurance Study (FHIS) to provide reliable data regarding the number of Floridians who were not covered by health insurance. The initial FHIS was completed in 1999; last year, AHCA received a grant to update the 1999 study.

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[9] Similar procedures are required for emergency rulemaking under the Administrative Procedure Act. See s. 120.54(4)(a), F.S.

[10] See also s. 120.68, F.S., which provides for immediate judicial review of final agency action.

Typically, data collected regarding the uninsured population in the U.S. counts citizens under the age of 65. According to AHCA, most Americans aged 65 or older "have some health coverage through Medicare." As a result, surveys of Americans relating to health insurance generally query Americans under age 65. Data in the FHIS are collected from Florida citizens under age 65.

The 2004 update to FHIS included telephone interviews with 17,435 Florida households. The data in the 2004 FHIS represent an estimated 46,876 Florida citizens. *Highlights from the 2004 Florida Health Insurance Study*[11] include:

- From 1999 to 2004, the number of uninsured Floridians under age 65 rose from 16.8 percent to 19.2 percent;
- Miami-Dade County now has the highest rate of citizens without health insurance at 28.7 percent, an increase from 24.6 percent in 1999;
- Rates of uninsurance increased the most for middle-income families in the state; those with annual family incomes ranging from $15,000 to $45,000 per year;
- As in 1999, Hispanics have the highest rate of uninsurance at 31.8 percent; African Americans are uninsured at the rate of 22.6 percent; white, non-Hispanics are uninsured at the rate of 14.3 percent;
- Employment status has a high correlation to health insurance coverage: almost half, 48.1 percent, of unemployed Florida citizens lack coverage; similarly, 32 percent of the self-employed lack health coverage. Full-time employees are uninsured at the rate of 15.7 percent;
- The size of an employer is a key factor in whether a Florida worker has health coverage. Among those in firms with fewer than 10 employees, more than 33 percent do not have health insurance, however, for employees in firms with 1,000 or more workers, only 5.2 percent lack health insurance;
- In describing the "main reason" they lack health insurance, 63 percent of the survey respondents cited cost as the primary factor; almost 10 percent indicated that their employers do not offer health insurance, and 3.7 percent of the respondents were unemployed at the time of the survey; and
- Of Floridians without health coverage, 54 percent have been without coverage for longer than 1 year and almost 19 percent have never had health insurance.

Florida's Current Health Insurance Market

In Florida, regulation of the insurance industry is shared by the Department of Financial Services (DFS) and the Office of Insurance Regulation (OIR). The state's Chief Financial Officer (CFO) heads DFS while the head of OIR is the Governor and Cabinet members sitting as the Financial Services Commission. Generally, OIR is responsible for granting a certificate of authority or license to an insurer; a domestic insurer, i.e., an insurer based in Florida, must possess a certificate of authority in order to conduct business in Florida. Similarly, many insurers are required by law to seek OIR approval for their rates, or the prices they charge for coverage, and approval of the insurance forms they use for issuing policies. The Office of Insurance Regulation investigates allegations of fraud against insurers and administers state laws governing the financial reserve requirements imposed on insurers. The regulation and licensure of insurance agents and agencies is the purview of DFS. Staff of DFS also provides consumer information and assistance through the Division of Consumer Services.

Various federal and state laws regulate the health insurance market in the state. The result of the various laws is that Florida's health insurance market is segmented into various groups, including self-insured groups or health plans, large groups of 51 or more participants, small groups ranging in size from 1 to 50 members, individual health policies, and out-of-state groups. Each segment of the market may be further divided into sub-groups, both in Florida, and in most other states, however, the Florida

[11] Available online at [http://ahca.myflorida.com/Medicaid/Research/Projects/fhis2004/PDF/highlights_from_the_2004_fhis_1104.pdf]

Insurance Code governs the activities, policies, and premiums of health insurance within the market segments identified herein.

Health Insurance and Small Employers
As indicated in the 2004 update to the FHIS, persons who are unemployed or employed by small employers, i.e., those with 50 or fewer employees, are the most likely to lack health insurance. The Legislature has recognized this problem and has created numerous programs over the past 15+ years to encourage small employers to make health insurance available to their employees.

Florida's current laws governing small group health benefits, s. 627.6699, F.S., The Employee Health Care Access Act or Small Group law, require insurance carriers to pool or aggregate all of their small groups into a single rating group or pool when apportioning costs and estimating premiums

Under the Employee Health Care Access Act (the Act), a "small employer" is defined in s. 627.6699(3)(v), F.S., as any person, sole proprietor, self-employed person, independent contractor, firm, association, or other business entity that is based in Florida, actively engaged in business, with at least one, and no more than 50 employees. The Act applies to a health benefit plan providing coverage to a Florida-based small employer, unless the policy is marketed directly to an individual employee whose employer does not participate in the collection or distribution of premiums or facilitate the administration of the policy.

The Act defines a carrier as a person or entity who provides health benefit plans in Florida, including an authorized insurer, a health maintenance organization, and a multiple-employer welfare plan, i.e., a self-insurance plan, unless the self-insurance plan existed in 1992 or earlier. Under the definitions provided in s. 627.6699(3), F.S., an "eligible employee," i.e., an employee who may participate in a group benefit plan, is an employee who works full time, including a normal workweek of 25+ hours. An "eligible employee" includes a sole proprietor, a self-employed person, or a partner.

The Act requires an insurer to offer group health benefits on a guaranteed-issue basis. The term "guaranteed-issue basis" is defined as an insurance policy that must be offered to an employer, employee, or to a dependent of an employee, regardless of health status, previous claims experience, or preexisting condition. A policy offered as a guaranteed issue also must provide all the coverage mandated by state law, including coverage for such services as mammograms, diabetes education and treatment, treatment for cleft lip and cleft palate, among other required benefits.

The current law also requires each small employer carrier issuing new health benefit plans to offer to any small employer, upon request, a standard health benefit plan, a basic health benefit plan, and a high deductible plan that meets the requirements of a health savings account plan as defined by federal law or a health reimbursement arrangement as authorized by the Internal Revenue Service.

Health Insurance Policies: General Provisions
Section 627.638, F.S., authorizes an insurer to make direct payment for services to a hospital or physician if a policyholder's contract authorizes direct payments. The same law requires an insurer to make direct payment to the health care service provider if the insured so requests, unless the health insurance contract specifically provides otherwise.

Section 395.1041, F.S., specifies the conditions under which a patient must be treated in a hospital emergency room. Generally, the law requires each hospital with an emergency department to treat any person who requests emergency services, regardless of whether the person has health insurance. Within the past several years, physicians and some hospitals have complained that they are not paid by some HMOs and insurers for treatment rendered in an emergency room if the physician or hospital is not part of the insurer's network of providers.

Health Savings Accounts
The Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Public Law 108-173, included provisions authorizing "tax-favored" health savings accounts (HSAs) for the payment of qualified medical expenses. The federal Act was signed into law by President Bush in December 2003, and it became effective January 1, 2004. An HSA is a portable health savings account a consumer may use to pay for qualified medical expenses. These accounts generally are offered in tandem with a health plan that provides coverage for major medical costs. Currently, consumers may make annual HSA contributions of up to $5,250 for a family and up to $2,650 for an individual.

Floridians for Health Care Choices, comprised of the Florida Chamber of Commerce, Florida Retail Federation and National Federation of Independent Business, is a coalition aimed at promoting new and affordable health care options for Florida employers and consumers. The group sponsors a website at www.saveforyourhealth.com. According to information on the website, "Florida is on the leading edge of promoting and implementing HSA programs, helping employers provide strong, flexible health plans that can benefit all Floridians."

Similarly, the website reports Floridians benefit by saving because once they contribute to an HSA, the money is theirs to spend—tax-free—for health care deductibles, co-payments, and other authorized expenses. Funds that are not used by year-end remain in the account to grow tax deferred, and after age 65 the funds can be used, without penalty, for anything— just like an individual retirement account (IRA). At all times, the money in an HSA account belongs to the consumer.

To be eligible for an HSA, an individual must be covered by a high deductible health plan (HDHP) which meets certain annual minimum deductible and maximum out-of-pocket requirements. In 2005, the minimum deductibles must be at least $1,000 for individual coverage and $2,000 for family coverage; out-of-pocket expenses may not exceed $5,100 for individual coverage and $10,200 for family coverage.

Contributions to an HSA by an eligible individual may be deducted from a participating individual's adjusted gross income on their federal income tax return, regardless of whether they itemize deductions. Distributions from an HSA for "qualified" medical expenses also are excluded from an individual's gross income. Health savings accounts also offer consumers portability, i.e., an HSA may be taken from one employer's health insurance plan to another and the HSA owner may continue to make deposits and withdrawals.

C. SECTION DIRECTORY:

Section 1. Creates an unnumbered section of law to form a commission to study coastal hospitals that served indigent populations and that sustained significant damage to their facilities during the 2004 hurricane season.

Section 2. Creates an unnumbered section of law to create a 13 member high deductible health insurance plan study group.

Section 3. Directs the Office of Program Policy Analysis and Government Accountability to conduct a study to evaluate whether the State of Florida should join the Nurse Licensure Compact.

Section 4. Provides the bill is effective upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

   See Fiscal Comments below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

   None.

D. FISCAL COMMENTS:

Hurricane - Hospital Study
No funding is appropriated in the bill for the study commission. Travel expenses and per diem for members appointed from the Department of Community Affairs, Agency for Health Care Administration, Division of Emergency Management, Department of Health and a direct of county emergency management would have to come from their expense budgets.

AHCA estimates travel costs for the Secretary of Health Care Administration or his designee to take part in the study commission at $3,105. This would include $621 per meetings ($21 meal allowance, $100 hotel, and $500 for travel) time an estimated five meetings. AHCA will handle the additional cost within existing resources.

Health Insurance Study
In its bill analysis and economic impact statement, the Agency for Health Care Administration made the following comments:

> The bill specifies the composition of the study group but does not specify staffing of the study group. The bill does not contain any appropriation for any expenses incurred by the study group.
>
> Past experience with work groups indicates that the work groups require staffing to arrange for meetings, publish meeting notices in the FAW, prepare minutes, conduct data research, and prepare draft reports and the final report. Specifically, the staff and the study group would be responsible for collecting the following data:

- The number of high deductible plans by area
- The number of health savings account plans by area
- Survey data on the impact of high deductible plans on access to health care, pharmaceutical benefits, and overutilization of health care services
- Survey data on the impact of high deductible plans on hospitals
- The ability of hospitals statewide to collect copayments and deductibles
- Methods to assist hospitals in collecting copayment and deductibles

- Alternative approaches to the collection of deductibles and copayments when the amounts of patient responsibility is unknown

- The impact of assignment of benefits attestations, and

- The impact of standardization of insured or subscriber identification cards.

In order to arrange for the first meeting on August 1, 2005, as required in the proposed bill, staff would have to be hired by July 1, 2005 and have to be available through the end of December of 2005 in order to complete the final report. According to the Agency for Health Care Administration (AHCA), an outside contractor would best accomplish this task.

It is estimated by AHCA that the Health Insurance study would cost approximately $210,600. On average it takes about 112 hours of preparation for one meeting. Assuming three meetings during the six months period, it would take 1.5 principal researchers and one senior consultant. The hourly rate for each principal researcher is $250 per hour, and $220 for each senior consultant, totaling about $600 for the team of consultants per hour. The total cost for the three meetings would be three times 112 hours times $600 equaling $210,600.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or 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:

Not required for the three studies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill does not specify staffing of the health insurance study group nor contain any appropriation for any expenses incurred by the health insurance study group.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On April 13, 2005, the Health Care Regulation Committee adopted a strike-all amendment and two amendments to the strike-all amendment.

- **Strike-All 1:** Removed references in the bill to exemptions from Certificate of Need (C.O.N) requirements and satellite beds. Added a high deductible insurance study to the bill.
- **Amendment 2:** Added a Nurse Licensure Compact study to the bill. The study will be conducted by the Office of Program Policy Analysis and Government Accountability (OPPAGA).
- **Amendment 3:** Clarified the requirements of the high deductible insurance study.

The analysis is drafted to the committee substitute.