

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote Personal Responsibility and Empower Families – Providing time and appropriate pre- and post-disaster information and improving the availability of services should enable the state's residents to make choices that will enhance the safety and well-being of themselves and their families.

B. EFFECT OF PROPOSED CHANGES:

Current situation

Florida's geographical location makes this state vulnerable to a variety of natural disasters, and other non-natural disasters are possible as well. Various state agencies work with one another, local and federal governments, interstate organizations, and the private sector to prepare residents and visitors before disasters, help protect them during such events, and assist them with recovery afterward.

Florida's regulatory guidelines regarding disaster response are outlined in several documents. Chapter 252, F.S., mandates the development of the Florida Comprehensive Emergency Management Plan (the Plan). The Plan establishes the framework to ensure that Florida is prepared to deal with the aftermath of any one of several hazards that threaten our communities, businesses, and the environment. The Plan coordinates response and recovery activities with federal, state, local, and volunteer entities and organizations. The Plan unifies the efforts of these groups to ensure a comprehensive approach to reducing and mitigating the effects of an emergency or disaster.

The Plan is divided into three sections:

- The Basic Plan – this section outlines in general terms how Florida will assist counties in responding to, recovering from, and mitigating the impact of a disaster.
- The Emergency Support Function Appendices – this section organizes state agencies into 17 emergency support functions and is patterned after the Federal Response Plan. The appendices outline the responsibilities of the primary and support agencies that aid local governments.
- The Hazard Specific Annexes – this section addresses special circumstances and situations including radiological incidents, terrorists, wildfire incidents, and repatriation processes.

Section 252.35(2)(a)2., requires the Plan to set forth policy guidelines for sheltering people with special needs.

Additionally, laws relating to health care providers, including ancillary services, provide that certain rules be developed and enforced to establish reasonable and consistent quality of care to persons prior, during, and after a disaster. The Plan emphasizes consistency of providing care and services through federal, county, and state agencies and community organizations.

A significant number of Florida's citizens are considered vulnerable in the event of natural disasters such as hurricanes:

- More than 76% of Florida's total population (12,816,041 persons) reside in the 35 coastal counties.
- Eight percent of the state's total population (1,333,969 persons) reside in mobile homes.
- More than 18% of the state's total population (3,051,453 persons) is 65 years of age or older, with the highest number in Miami-Dade (314,497), Palm Beach (278,868), Broward (315,470), Pinellas (229,763) and Hillsborough (139,341) counties.¹
- Florida has made significant strides in reducing the deficit of safe hurricane shelter space in the past five years. Approximately 50% of the deficit has been eliminated. However, between 2004

¹ *Comprehensive Emergency Management Plan 2004*, February 1, 2004

and 2009, the vulnerable population in Florida is projected to increase by nearly 900,000, with as many as 16% possibly seeking safety in public shelters.²

- There are 746 nursing homes with 81,986 licensed beds in the state.
- There are an estimated 333,492 citizens that may be considered “frail elderly” (about 2% of the Florida’s population).

Most recently, the challenges of the four hurricanes that struck Florida within weeks of each other during the 2004 hurricane season provided the opportunity to identify needed improvements with disaster services, especially regarding special needs shelter operations related to health care services. Examples of problems the state experienced include:

- An unexpectedly large demand for special needs shelter services.
- A lack of placements for persons with special needs whose homes or facilities were uninhabitable after the disasters.
- An inadequate number of caregivers and medical personnel at special needs shelters.

Proposed changes

This bill amends certain sections of chapter 252, F. S., and other chapters addressing pre- and post-disaster planning to address services to persons with special needs before, during, and after disasters. It assigns lead responsibility for certain functions to specific state agencies. It also provides certain facility use and licensure flexibility pre- and post-disaster. The effect of these provisions should be to provide increased coordination among federal, state and local entities and timely and appropriate use of facilities to serve the special needs population.

The bill:

- Includes individuals with cognitive impairments among persons considered to have special needs.
- Designates the Department of Community Affairs as the lead agency responsible for community education and outreach and requires that department to coordinate with certain other entities in those efforts.
- Requires local emergency management agencies to provide special needs registry information to the Department of Health.
- Designates Children’s Medical Services as the lead agency for coordinating local medical and health care providers for the staffing and management of pediatric special needs shelters, the Department of Elder Affairs as the lead agency responsible for pre- and post- placement of adult special needs residents and Alzheimer’s patients, and the Department of Children and Families as the lead agency responsible for placement of individuals with mental health special needs and children within the child protection system.
- Directs local county governments to assist with recruiting health care practitioners and staffing special needs shelters.
- Allows hospitals and nursing homes to request reimbursement for sheltering special needs persons.
- Directs the Special Needs Shelter Interagency Committee to develop and submit to the Legislature a series of recommendations, and expands this committee to include the Agency for Workforce Innovation, Florida Association of Aging Services Providers, and AARP.
- Requires the Department of Health to adopt rules regarding minimum standards for special needs shelters.
- Directs the Department of Health to establish a statewide database designed to capture and disseminate timely and appropriate special needs registration information and develop specific rules regarding the definition of a special needs patient, physician reimbursement, and county health department responsibilities.
- Specifies that the Department of Community Affairs shall include information about special needs shelter needs in its biennial statewide emergency shelter plan.

² *State of Florida 2004 Statewide Emergency Shelter Plan*, February 2004.

- Requires that emergency management plans must address a home health agency's functional staffing plan for shelters to ensure continuity of care and services for clients.
- Requires that the local emergency management agency shall inspect a shelter facility prior to activating that facility before a disaster.
- Encourages home health agencies, hospices, and durable medical equipment providers to develop links to emergency operations centers to determine a mechanism to approach disaster areas in order to reach clients, and directs home health care providers to provide continuity of care for their patients.
- Provides licensure and use flexibility to allow nursing homes, assisted living facilities, and other group care facilities to provide bed space for residents who may be unable to return home within 72 hours post-event and allows for an emergency status of skilled nursing beds at hospitals to ensure they can be reimbursed if beds are required to accommodate residents of nursing homes that have been so damaged that they must be closed.
- Requires the Agency for Health Care Administration to regularly contact nursing homes during emergencies on a daily basis to determine if they are in need of services and supplies to adequately care for clients and to publish an emergency contact number for reporting requests for assistance.

C. SECTION DIRECTORY:

Section 1 amends s. 252.355, F.S., regarding registration of persons with special needs.

Section 2 amends s. 381.0303, F. S., regarding special needs shelters health care practitioner recruitment staffing, shelter planning and use; the assignment of agency lead responsibilities; certain state employees' roles, hospital reimbursement for disaster-incurred expenses; the special needs shelter interagency committee's responsibilities, membership, and meeting arrangements; the establishment of a statewide special needs registry data base; and the Department of Health's rule-making authority and emergency management plan review.

Section 3 amends s. 252.385, F. S., regarding public shelter space and special needs registration.

Section 4 amends s. 400.492, F. S., regarding provision of services during an emergency.

Section 5 amends s. 408.831, F.S., regarding facility licensure and the provision of certain licensure and facility use pre- and post-disaster.

Section 6 creates s. 252.357, F.S., regarding the Agency for Health Care Administration's contact with nursing homes during disasters.

Section 7 provides an effective date of July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The Agency for Health Care Administration, the Department of Health, and the Division of Emergency Management Services in the Department of Community Affairs state that there is no

fiscal impact. The Department of Elder Affairs has not determined how much of a fiscal impact, if any, the provisions in this bill will create.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Businesses providing services to persons with special needs, social service non-profit agencies, volunteer organizations, and other entities may be required to assume additional coordination and disaster-related duties. The economic impact related to increased coordination efforts is undetermined.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Undetermined. Counties are already involved in emergency management activities, and the bill does not appear to impose significant new responsibilities upon them; thus the fiscal impact, if any, on counties is nonexistent or insignificant. The bill does not appear to require a municipality to spend funds or to take actions 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 is required to promulgate certain rules.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Section 6 of the bill requires the Agency for Health Care Administration to take action beginning on June 1, 2005, which is before the effective date of the bill.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 23, 2005, the Health Care General Committee recommended a strike-everything amendment that changed the bill by identifying certain state agencies with lead pre and post disaster responsibilities and directing the Department of Health to establish a statewide data base to capture and disseminate special needs registration information. The Health Care General Committee adopted the amendment and reported the bill favorably with a committee substitute.

On April 6, 2005, the Governmental Operations Committee recommended a strike-everything amendment and reported the bill favorably with a committee substitute. The amendment:

- Specifies that the Department of Community Affairs must coordinate outreach activities related to special needs shelters with specified state agencies and organizations.
- Clarifies lead agency responsibilities by type of special need:
- Provides for nursing homes, not just hospitals, used as shelters to obtain reimbursement.
- Clarifies that the local emergency management agencies inspect shelters for readiness prior to activating them before a disaster.
- Requires the Division of Emergency Management of the Department of Community Affairs to include in their biennial plan information about special needs shelters.
- Details required minimum standards related to rules for special needs shelters to be adopted by the Department of Health, such as regarding the provision of electricity, transportation, and shelter location.
- Specifies that nurse registries, hospices, and durable medical equipment providers have responsibilities similar to home health care providers in how they plan to care for clients during a disaster.
- Specifies that hospices, not just home health agencies, must make a good faith effort to care for their clients at a shelter.
- Specifies that home health agencies and nurse registries must provide continuity of care staffing plans for in special needs shelters only for their clients who are on the special needs registries.
- Provides for flexibility for nursing homes in meeting capacity regulations in emergency situations when it's being used for shelter.
- Requires the Agency for Health Care Administration to regularly contact nursing homes during emergencies on a daily basis to determine if they are in need of services and supplies to adequately care for clients and to publish an emergency contact number for reporting requests for assistance.