

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1565 Local Government Advanced Life Support and Emergency Medical Services
SPONSOR(S): Needelman
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Health Care Regulation Committee		Hamrick	Mitchell
2) Finance & Tax Committee			
3) Health & Families Council			
4) _____			
5) _____			

SUMMARY ANALYSIS

HB 1565 addresses conflicts between municipalities and county emergency management services (EMS) systems, such as, the current dispute between the City of Palm Bay and Brevard County.

The bill requires the board of county commissioners to certify any municipality that applies for a certificate of public convenience and necessity to provide advanced life support transport or nontransport emergency services.

The bill requires the withdrawal of any actions pending, and prohibits governing bodies of any county to levy, collect, or enforce collection of special assessments on property for emergency medical services. The bill requires a county to rebate taxpayers' any collected special assessments. The bill applies retroactively to August 1, 2002.

While the bill focuses on a city vs. county issues, the EMS industry statewide also includes municipal and county providers, private, not-for-profit, volunteer, special district, hospital, community development district, gated-community, and other types of EMS providers.

According to the Department of Health, the bill may eliminate the existing county EMS structures in counties where municipalities elect to provide their own service. While the bill will improve the ability of each municipality to provide EMS services to their area and potentially increase the number of available EMS transportation units to the citizens of the state, concern has been expressed that if such localized systems are not well integrated there may be adverse impact on 911 response time and coordination of services.

According to the Department of Health, an assertion of an exclusive county franchise in a county previously served by one or more private vendors may raise issues of impairment of contract.

The bill takes effect July 1, 2005.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government-The bill addresses conflicts between municipalities and county emergency management services (EMS) systems.

Safeguard individual liberty-The bill may increase the number of licensed advanced life support services available within municipalities and counties.

B. EFFECT OF PROPOSED CHANGES:

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CURRENT SITUATION

Licensure as Basic or Advanced Life Support Service

Section 401.25(1), F.S., provides that every organization engaged in providing prehospital or interfacility advanced life support services or basic life support transportation services must be licensed as a basic life support service or an advanced life support service.

Section 401.25(2), F.S., requires the Department of Health to issue a 2 year license for operation to any applicant who has paid the fees required by s. 401.34, F.S., and complies with these requirements:

- Ambulances, equipment, vehicles, personnel, communications systems, staffing patterns, and services; and
- Adequate insurance coverage.

The applicant must also obtain a certificate of public convenience and necessity from each county in which the applicant will operate. In issuing the certificate of public convenience and necessity, the governing body of each county shall consider the recommendations of municipalities within its jurisdiction.

Section 401.25, F.S., also provides that the governing body of each county may adopt ordinances that provide reasonable standards for certificates of public convenience and necessity for basic or advanced life support services and air ambulance services. In developing standards for certificates of public convenience and necessity, the governing body of each county must consider state guidelines, recommendations of the local or regional trauma agency created under chapter 395, and the recommendations of municipalities within its jurisdiction.

An Example of Emergency Medical Service Systems in Florida

Pinellas County

Chapter 80-585, Laws of Florida provides for the creation of Pinellas County's Emergency Medical Services (EMS) Authority. The chapter gives EMS the authority to establish uniform standards that are equal to or stricter than those established by Chapter 401, Florida Statutes. Authority is also given to designate districts and levy ad valorem taxes¹ not to exceed 1.5 mills. As a result, eighteen EMS districts have been established. Agreements have been entered into with the eighteen municipalities and independent fire districts to provide state-of-the-art Advanced Life Support (ALS) first responder services to the citizens of Pinellas County. Per Section 54-56, County Code, the Board of County Commissioners (Board) is the governing body of the EMS authority.²

Special Assessments

Counties and municipalities utilize special assessments as a home rule revenue source to fund services and construct and maintain capital facilities.³

As established by case law, two requirements exist for the imposition of a valid special assessment:

- The property assessed must derive a special benefit from the improvement or services provided; and
- The assessment must be fairly and reasonably apportioned among the properties that receive the special benefit.⁴

The test to be applied in evaluating whether a special benefit is conferred on property by the provision of a service is: "whether there is a 'logical relationship' between the services provided and the benefit to real property."⁵

Generally, a special assessment, whether imposed for capital projects or services, is collected on the annual ad valorem tax bill pursuant to the uniform collection method authorized in section 197.3632, F.S. Under such statutory collection procedure, the special assessment is characterized as a "non-ad valorem assessment."⁶

¹ Ad valorem is a Latin term meaning "based on value," which applies to property taxes based on a percentage of the county's assessment of the property's value. The assessed value is the standard basis for local real property taxes, although some place "caps" (maximums) on the percentage of value or "parcel taxes," which establish a flat rate per parcel. Ad valorem taxes may also be applied to personal property, such as a duty on imported items and motor vehicles. (http://www.uslegalforms.com/lawdigest/legaldefinitions.php/ad_valorem_tax.htm.)

² Board of County Commissioners Emergency Medical Services First Responders Services, Report No. 98-12, August 6, 1998.

³ Primer on Home Rule and Local Government Revenue Sources, January 2005.

⁴ City of Boca Raton v. State, 595 So. 2d 25, Fla., 1992.

⁵ Whisnant v. Stringfellow, 50 So. 2d 885, Fla. 1951.

⁶ See s. 197.3632(1)(d), F.S.

Court Case Referred to in the Bill

The case referred to in the bill, Supreme Court of Florida, City of North Lauderdale v. SMM Properties, Inc., 825 So.2d 323, Fla., 2002, addresses the validity of special assessments.⁷ In June 1996, the City adopted an ordinance which authorized and established procedures to fund the cost of an integrated fire rescue and emergency medical services program through a special assessment levied on all property owners in the City. The opponents conceded that the fire services portion of the assessment, conferred a special benefit on their properties, but sought a declaration that the portion of the assessment for emergency medical services was improper because the properties did not derive a special benefit from this service. The final determination was that there is no logical relationship between emergency medical services (the assessment, treatment, and transport of sick or injured people) and a special benefit to real property. Emergency medical services provide a personal benefit to individuals.

Florida Regulations

Under section 401.24, F.S, the Department of Health is responsible, at a minimum, for the improvement and regulation of basic and advanced life support programs. The Department of Health must develop and biennially revise a comprehensive state plan for basic and advanced life support services, the emergency medical services grants program, trauma centers, the injury control program, and medical disaster preparedness. The state plan must include, but is not limited to:

- 1) Emergency medical systems planning, including the prehospital and hospital phases of patient care, and injury control effort and unification of such services into a total delivery system to include air, water, and land services;
- 2) Requirements for the operation, coordination, and ongoing development of emergency medical services, which includes: basic life support or advanced life support vehicles, equipment, and supplies; communications; personnel; training; public education; state trauma system; injury control; and other medical care components; and
- 3) The definition of areas of responsibility for regulating and planning the ongoing and developing delivery service requirements.

Section 125.01(e), F.S., requires county governments to provide hospitals, ambulance service, and health and welfare programs.

BACKGROUND INFORMATION

National Emergency Medical Services

The International City/County Managers Association (ICMA) conducts periodic surveys that ask municipalities and counties how services are provided. Of the nearly 1,600 respondents to the most recent available survey (based on 1997-1998 data), 36.9 percent of municipalities and counties had privatized ambulance service. The Journal of Emergency Medical Services (JEMS) surveys EMS provision in America's 200 largest cities, and finds that first response is dominated by public fire departments (nearly 97 percent). However, private for-profit firms most commonly provide patient transport (38 percent). Since an additional 4.3 percent of patient transporters are private not-for-profit firms, private firms account for 42.1 percent of patient transporters.⁸

⁷ Supreme Court of Florida, City of North Lauderdale v. SMM Properties, Inc., 825 So.2d 323, Fla., 2002

⁸ Privatization.org, *Emergency Medical Services*, http://www.privatization.org/database/policyissues/ems_local.html.

Since the JEMS survey only includes cities (not counties), it understates the degree to which private providers serve large populations. For example, the survey overlooks two well known private providers. A private provider serves 1 million residents of Pinellas County, Florida. Tulsa and Oklahoma City have combined efforts and created the Emergency Medical Services Authority (EMSA) to oversee emergency medical services. EMSA contracts with a private provider to serve the 1.1 million residents in its jurisdiction.⁹

Best Practices across the Nation

The single most important factor in emergency medical services is whether the system is designed and structured for efficient and effective performance.¹⁰

Among American cities, one can find a wide range of system designs, with a wide range of unit costs, productivity levels, response-time performance, and per capita subsidies.¹¹

Typical public-private EMS system partnerships include the city fire department providing first-responder services and a single private ambulance contractor responsible for all transports using an all Advanced Life Support fleet.¹²

Features of High-Performance EMS Systems

1. All calls for service go to a single, centrally staffed control center (avoiding the risks of patient self-triage).
2. Priority dispatch by paramedics replaces call screening.
3. The all-ALS fleet (working in concert with the fire department first-responders) eliminates the risk of sending the wrong unit.
4. Providers are held to strict standards of response-time reliability.
5. Peak-load staffing replaces 24-hour shifts.
6. System status management (moving resources according to demand) replaces static deployment.

C. SECTION DIRECTORY:

Section 1. Amends s. 401.49, F.S., to require the board of county commissioners to certify any municipality that applies for a certificate of public convenience and necessity to provide advanced life support transport or nontransport emergency services.

Section 2. Requires the withdrawal of any actions pending, and prohibits governing bodies of any county to levy, collect, or enforce collection of special assessments on property for emergency medical services. Requires a county to rebate taxpayers' any collected special assessments. Provides a retroactive effective date of August 1, 2002.

Section 3. Provides a severability clause.

Section 4. Provides the bill will take effect July 1, 2005.

⁹ Ibid.

¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Estimated Revenue	1st Year	2nd Year <i>(Annualized/Recurr.)</i>
Licensure fees @ \$1,450 / agency fee recurring every 2 years deposited into EMS trust fund <i>If 60 new agencies</i>	\$87,000	0
Total Estimated Revenue	\$87,000	\$0

2. Expenditures:

Estimated Expenditures	1st Year	2nd Year <i>(Annualized/Recurr.)</i>
Salaries		
1 Inspector PG 22 (10% above base and 28% fringe)	\$49,543	\$ 49,543
Other Personal Services		
Expense		
Standard Expense Package-non-recur	\$3,230	
Standard Expense Package-recur	\$6,513	\$6,513
Significant travel (60 new agencies)	\$20,000	\$20,000
Human Resource Services	\$389	\$389
Operating Capital Outlay		
Standard OCO Package	\$1,800	
4WD Inspection Vehicle @ \$23,000	\$23,000	
Total Estimated Expenditures	\$104,475	\$76,445

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate. See D. Fiscal Comments.

2. Expenditures:

Indeterminate. See D. Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

According to the Department of Health (DOH), the bill would eliminate the county EMS structure in those counties where municipalities elect to provide their own service. The bill will improve the ability of each municipality to provide EMS services to their area and potentially increase the number of available EMS transportation units to the citizens of the state.

D. FISCAL COMMENTS:

According to DOH, the number of municipalities that may elect to operate EMS services is unknown; it is probable that there would be an increase in licensed EMS services. The bill would allow municipalities to collect the income from the most populous portions of the county.

According to DOH, the bill would decrease the number of transportation fees the county is able to collect and reduce the coverage area of already established countywide EMS systems.

The bill will likely increase the number of licenses issued by DOH, which will increase the number of required EMS service inspections. DOH will need to hire one full time inspector (paramedic, pay grade 22) per 60 new agencies in order to meet the inspection need.

As a result of the number of licensees increasing, the regulatory responsibility, including administrative action to enforce litigation, may increase, requiring greater legal representation. Additional equipment, vehicles, and training will also be required to meet the increase. Inspection expenses are currently covered by the EMS trust fund and licensure fees.

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:

According to the Department of Health, an assertion of an exclusive county franchise in a county previously served by one or more private vendors may raise issues of impairment of contract.

West Law explains an impairment of contract as, "a statute contravenes the constitutional prohibition against impairment of contracts when it has the effect of rewriting antecedent contracts, that is, of changing the substantive rights of the parties to existing contracts."¹³

"Impair" means to make worse; to diminish in quantity, value, excellence, or strength; or to lessen in power or weaken. Thus, the obligation of a contract is impaired when the substantive rights of the parties are changed, or when new and different liabilities are imposed.

B. RULE-MAKING AUTHORITY:

No additional rulemaking authority is required to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Florida Ambulance Association (FAA) is strongly opposed to HB 1565. Although the bill is framed as a city vs. county issue, the EMS industry includes not only municipal and county providers, but

private, not-for-profit, volunteer, special district, hospital, community development district, gated-community and other types of EMS providers. According to FAA, the bill fails to address EMS systems in Florida, but rather looks at one special interest, municipalities. FAA states that the bill could result in fragmentation of the system, potentially inconsistent provider regulations, and could result in higher per capita costs to taxpayers or patients.

The Florida Association of Counties (FAC) also opposes HB 1565. According to FAC, the bill, which is an attempt to solve a local problem, can harm quality EMS systems throughout the state. FAC states that the language in the bill regarding superseding any special act regarding medical transportation will destroy EMS systems in other parts of the state. The bill may fragment EMS services, cause difficulty in communication and coordination of EMS, and result in increased per capita costs for EMS services. EMS coverage in unincorporated or less populated areas, even other cities, may be more difficult and costly to taxpayers. According to FAC, the bill may result in differing regulations throughout the county, as cities can opt to have lesser standards. The proliferation of municipal EMS services may deprive patients of existing coordinated EMS programs that ensure system-wide quality of care.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES