

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: Ways and Means Committee

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BILL: CS/CS/CS/CS/CS/SB 1058

INTRODUCER: Ways and Means Committee, Transportation and Economic Development  
Appropriations Committee, Health Care Committee; Community Affairs Committee,  
Domestic Security Committee and Senators Diaz de la Portilla and Wise

SUBJECT: Emergency Management

DATE: April 24, 2006

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Pardue</u>	<u>Skelton</u>	<u>DS</u>	<u>Fav/CS</u>
2.	<u>Herrin</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
3.	<u>Bedford</u>	<u>Wilson</u>	<u>HE</u>	<u>Fav/CS</u>
4.	<u>Weaver</u>	<u>Martin</u>	<u>TA</u>	<u>Fav/CS</u>
5.	<u>Weaver</u>	<u>Coburn</u>	<u>WM</u>	<u>Fav/CS</u>
6.	_____	_____	_____	_____

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## I. Summary:

This bill amends various sections of the Florida Statutes with respect to the planning and operation of special needs emergency shelters in the state. The bill also addresses emergency planning and management to enhance the safety and well-being of persons with special needs before, during, and after a disaster. In addition, the bill assigns lead responsibility regarding special needs shelter maintenance and operation to certain state agencies, establishes the multiagency special needs shelter discharge planning team and encourages coordination of emergency services among national, state and local agencies and volunteer organizations. Specifically, the bill:

- Assigns lead agency education and outreach responsibilities to the Department of Community Affairs (DCA);
- Expands special needs registration efforts;
- Ensures nursing homes and assisted living facilities in a disaster area receive initial contact from the Agency for Health Care Administration (AHCA);
- Requires the Division of Emergency Management (DEM) to prepare a biennial shelter plan that estimates future needs for special needs shelters;
- Amplifies the Department of Health's (DOH) role in establishing a more coordinated comprehensive emergency plan review of certain facilities and providers;
- Makes reimbursement to health care practitioners and facilities contingent upon the availability of federal funds;
- Revises the membership and role of the Special Needs Shelter Interagency Committee;

- Provides for procedures to address the needs of families of special needs shelter residents;
- Authorizes the AHCA to impose a fine under certain circumstances;
- Authorizes certain entities regulated or licensed by the AHCA to exceed their licensed capacity during an evacuation situation;
- Provides for an inactive license status for all entities licensed or regulated by the AHCA, when a licensee is unable to operate due to damage; and
- Requires the licensee to notify the client regarding an inactive status and, if applicable, any necessary discharge or transfer as required by statutes or rules.

This bill substantially amends the following sections of the Florida Statutes: 252.355, 252.385, 381.0303, 400.492, 400.497, 400.506, 400.610, 400.925, 400.934, 400.935, and 408.831.

This bill creates sections 252.3568 and 252.357, Florida Statutes.

## II. Present Situation:

### Florida's Recent Experiences Responding to Natural Disasters

Florida's geographical location makes this state vulnerable to a variety of natural disasters. Various state agencies coordinate with local and federal governments, interstate organizations, and the private sector to prepare residents and visitors before disasters to help protect them during such events and assist with recovery afterward.

The 2004 and 2005 hurricane seasons placed extreme demands on the state's ability to respond to natural disasters. Post season analysis of the state's Special Needs Shelter (SpNS) operations highlighted issues of concern such as organizational deficiencies, damage to shelter structures, power outages, demographic based changes in demand for SpNSs, and the stress on patients, caregivers, and emergency managers. Special needs shelters provide refuge to persons who because of a health or medical condition require the supervision of a health care professional during a disaster or emergency. These shelters operate and coordinate services with state, local agency and volunteer organizations.

The Governor issued Executive Order Number 04-192 on September 1, 2004, authorizing the DOH to assume responsibility for operations of SpNSs if specifically requested by any county Director of Emergency Management. This order, incorporated in subsequent hurricane executive orders, was prompted by, "[T]he recognition that the system was overwhelmed and that the department was in the best position, under the circumstances, to assume expedient responsibility for special needs shelter operations . . ."<sup>1</sup>

The DOH, in its *2004 Hurricane Season AFTER ACTION REPORT* documents that changing demographics have resulted in increasing numbers of elderly and disabled individuals receiving in-home services. The report states, "[D]uring these storms, Florida, with its high proportion of elderly, experienced the effects of these combinations of factors like never before. Individuals, who functioned well in their homes during normal times, many with support services from home

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<sup>1</sup> Florida Department of Health, *2004 Hurricane Season AFTER ACTION REPORT*, March 4, 2005, page E2.

health care agencies, were unable to maintain that level of functionality during and after the storms. Storm-related disruptions to communications, transportation, power supplies, and lack of continuity of in-home support services as well as structural damage to their homes, forced many seniors out of their independent living status and into SpNSs, at least temporarily. In some areas, those who had not evacuated prior to the storm found they could not safely remain in their homes after the storm due to these disruptions resulting in a ‘second wave’ of evacuees entering SpNSs.”<sup>2</sup>

The DOH’s report highlights a number of issues and lessons learned including:

- Some SpNSs were used with structural integrity ratings below the strength of the hurricane category faced while other SpNSs sustained damage at wind speeds below their maximum rating.
- County health departments were not always involved with other government entities in the selection of SpNSs.
- Many eligible persons were not aware of the Special Needs Registry and many of those registered did not actually choose to shelter in a SpNS.
- Many eligible persons asked to be added to the registry just prior to storm landfall and many registry lists were not updated.
- Many of the operational and shelter management issues that arose had been previously addressed in published documents, yet some staff persons were not aware of the available resources, highlighting a need for improved training.
- Better asset assignment was needed, including staff with current specialty skill sets and specialized equipment such as heavy patient lift devices or able-bodied staff, respiratory therapists, oxygen concentrators and other medical support equipment.
- A broad range of communications devices were needed, including cell phones, satellite phones, 800-megahertz radios. These devices should be identified ahead of time and assigned to SpNSs.
- Stressful shelter conditions such as lack of air conditioning and marginal food and water supplies led to rapid negative health impact on patients, highlighting the need for discharge planning.
- As some shelters were damaged or destroyed by previous storms, back-up alternatives such as regional SpNSs were suggested at the same time highlighting the potential to overwhelm adjacent county medical resources.

During the 2005 hurricane season, additional analysis revealed that physically impaired individuals who decided to shelter at home in multi-story buildings became “trapped” when elevators were rendered inoperable due to power outages. These individuals represent a substantial group that may also seek SpNS services in the future.

### **Florida Statutory Provisions Relating to Special Needs Shelters**

Part I of chapter 252, F.S., is the “State Emergency Management Act.” Under s. 252.35, F.S., the DEM in the DCA is responsible for maintaining a comprehensive statewide program of

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<sup>2</sup> Id., pages E2-E3.

emergency management and for coordinating with efforts of the Federal Government, other departments and agencies of state government, county and municipal governments and school boards, and private agencies that have a role in emergency management. Included is a provision to set forth policy guidance for public shelters, including sheltering people with special needs.<sup>3</sup>

Section 252.355, F.S., requires each local emergency management agency to maintain a registry of persons with special needs located within the jurisdiction of the local agency. This section requires specified state agencies and other entities to assist the local emergency management agencies in identifying persons to be included in the registry by having the agencies collect registration information from all persons in need of assistance and develop a plan to meet those identified needs. The section also requires electric utilities to annually notify residential customers of the registration program. Section 252.385, F.S., requires the DEM to provide for public shelter space.

Section 381.0303, F.S., designates the DOH, through its county health departments, as the lead agency for coordination of the recruitment of health care practitioners to staff special needs shelters in times of emergency or disaster. This section requires the DOH to reimburse, subject to the availability of funds for this purpose, health care practitioners for medical care provided at the request of the department in special needs shelters.

The following facilities and programs regulated by the AHCA are required to have an updated and approved Comprehensive Emergency Management Plan.

- Adult Day Care Centers (s. 400.562(1)(g), F.S.)
- Ambulatory Surgical Centers (s. 395.1055(1)(c), F.S.)
- Assisted Living Facilities (s. 400.441(1)(b), F.S.)
- Home Health Agencies (s. 400.492, F.S.)
- Hospices (s. 400.610(1)(b), F.S.)
- Hospitals (s. 395.1055(1)(c), F.S.)
- Nursing Homes (s. 400.23(2)(g), F.S.)

The minimum criteria for the Comprehensive Emergency Management Plans are included in the rules adopted by the AHCA. At a minimum, the rules must provide for plan components that address emergency evacuation transportation; adequate sheltering; post disaster activities, including emergency power, food, and water; post disaster transportation; supplies; staffing; emergency equipment; individual identification of residents and transfer of records; and responding to family inquiries.

### III. Effect of Proposed Changes:

**Section 1.** Amends s. 252.355, F.S., relating to the registry of persons with special needs, to add persons with cognitive impairments to the list of persons with special needs, and to add hospices, nurse registries, home medical equipment providers, the Department of Education, and the Agency for Persons with Disabilities to the list of entities responsible for providing registration information about SpNSs to all people with disabilities or special needs clients who receive

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<sup>3</sup> S. 252.35(2)(a)2., F.S.

services. The bill deletes an obsolete reference to the Department of Labor and Employment Security, which no longer exists.

The DCA is designated as the lead agency responsible for conducting community education and outreach regarding registration of persons with special needs and general information about SpNSs. The DCA is required to disseminate the educational and outreach information through the local emergency management offices.

Persons with special needs must be allowed to bring a service animal into a SpNS in compliance with the Americans with Disabilities Act. The bill requires electric utilities to provide their customers with notice of the availability of the registration program twice per year. Hospices, nurse registries, and home medical equipment providers are added to the list of entities that are required to assist emergency management agencies by collecting registration information for persons with special needs.

**Section 2.** Creates s. 252.3568, F.S., to require the DEM to address the evacuation of persons with pets in the shelter component of the state comprehensive emergency management plan and to require the Department of Agriculture and Consumer Services to assist the division in determining strategies for pet and animal sheltering during a disaster.

**Section 3.** Creates s. 252.357, F.S., to require the AHCA to monitor nursing homes and assisted living facilities during emergencies to determine if assistance is needed and to publish an emergency telephone number for nursing homes and assisted living facilities to use to request assistance.

**Section 4.** Amends s. 252.385, F.S., to require the DEM to prepare a statewide emergency shelter plan and submit the plan every other year to the Governor and Cabinet for approval. The plan must identify the general location and square footage of special needs shelters and include information about the availability of pet-friendly shelters. The DOH must assist in determining the estimated need for special needs shelter space. The local emergency management agency must inspect a designated public shelter facility to determine its readiness prior to activating the facility for a hurricane or disaster.

**Section 5.** Amends s. 381.0303, F.S., relating to the operation and closure of SpNSs. The bill:

- Requires the local Children's Medical Services offices to assume lead responsibility for locally coordinating health care providers and other interested parties in developing a plan for staffing and medical management of pediatric SpNSs;
- Includes Children's Medical Services offices, along with appropriate county health departments and local emergency management agencies, in the joint decision regarding responsibility for medical supervision in a SpNS;
- Designates local emergency management agencies as responsible for the closure of SpNSs following an emergency or disaster;
- Requires the Secretary of the Department of Elderly Affairs (DOEA) to convene one or more multi-agency SpNS discharge planning teams as necessary to assist local areas

- severely impacted by a natural or manmade disaster. The bill provides that the team(s) will be made up of at least one representative from the DOEA, DOH, Children and Family Services, Veterans' Affairs, DCA, AHCA and the Agency for Persons With Disabilities;
- Provides that reimbursement to certain health care practitioners, who provide care at the request of the Department of Health in special needs shelters, is contingent upon the availability of federal funds;
  - Provides for reimbursement, contingent upon the availability of federal funds, to receiving facilities for up to 90 days if the multiagency SpNS discharge planning team determines it is necessary to discharge persons with special needs to other specified facilities;
  - Provides a limitation on reimbursement for services provided to a special needs client if the client was enrolled in another state-funded program such as Medicaid or another similar program, or who was covered under a health insurance policy, that would otherwise pay for the same services;
  - Authorizes the Secretary of the DOH to establish a special needs shelter interagency committee and serve as or appoint a committee chair. The bill requires the DOH to provide necessary staff and resources to support the committee;
  - Revises the membership of the SpNS Interagency Committee to include the Florida Association of Aging Services Providers, AARP, and the Florida Renal Coalition, and requires the use of teleconference or video conferencing for the committee's meetings to ensure statewide input and participation;
  - Provides rule making authority to the DOH to adopt SpNS standards, including the definition of "person with special needs," staffing, provision of services and support, procedures for addressing the needs of unregistered clients, procedures for addressing the needs of families of special needs clients, and the requirement that county health department's seek the participation of health and medical emergency preparedness stakeholders in pre-event planning; and
  - Affirms the requirement for the submission of emergency management plans by home health agencies, nurse registries, hospice programs, and home medical equipment providers to local county health departments.

**Section 6.** Amends s. 400.492, F.S., regarding home health agencies and the provision of services during an emergency, to require a home health agency to include in its comprehensive emergency management plan the means by which the agency will continue to provide staff to perform the same type and quantity of services to patients who evacuate to an SpNS that were being provided to those patients prior to evacuation. The bill authorizes home health agencies to establish links to local emergency operations centers to determine how to best reach the agency's clients within a disaster area.

**Section 7.** Amends s. 400.497, F.S., to establish county health department procedures regarding the review of home health agencies' comprehensive emergency plans and to provide for notification of plan approval or deficiency. The bill authorizes the AHCA to impose a fine under certain circumstances.

**Section 8.** Amends s. 400.506(16), F.S., regarding nurse registries and the provision of services during an emergency, to authorize nurse registries to establish links to local emergency operations centers to determine how to best reach the registry's clients within a disaster area. Also, the bill establishes county health department procedures regarding the review of nurse registries' comprehensive emergency plans and provides for notification of plan approval or deficiency. The bill authorizes the AHCA to impose a fine under certain circumstances.

**Section 9.** Amends s. 400.610, F.S., regarding hospices and the provision of services during an emergency, to authorize hospice providers to establish links to local emergency operations centers to determine how to best reach the hospice clients within a disaster area. Also, the bill establishes county health department procedures regarding the review of hospice comprehensive emergency plans and provides for notification of plan approval or deficiency.

**Section 10.** Amends s. 400.925, F.S., to define "life-supporting or life-sustaining equipment" as a device that is essential to, or that yields information that is essential to, the restoration or continuation of a bodily function important to the continuation of human life. Life-supporting or life-sustaining equipment includes apnea monitors, enteral feeding pumps, infusion pumps, portable home dialysis equipment, and ventilator equipment and supplies for all related equipment, including oxygen equipment and related respiratory equipment.

**Section 11.** Amends s. 400.934, F.S., regarding home medical equipment providers and the provision of services during an emergency, to require home medical equipment providers to prepare and maintain a comprehensive emergency management plan that meets minimum statutory criteria. The bill authorizes home medical equipment providers to establish links to local emergency operations centers to determine how to best reach the provider's clients within a disaster area. Also, the bill establishes county health department procedures regarding the review of home medical equipment providers' comprehensive emergency plans and provides for notification of plan approval or deficiency. The bill authorizes the AHCA to impose a fine under certain circumstances.

**Section 12.** Amends s. 400.935, F.S., to require the AHCA to adopt rules relating to the preparation of the comprehensive emergency management plan by home medical equipment providers and minimum criteria for such plans, including the maintenance of patient equipment and supply lists that can accompany patients who are transported from their homes.

**Section 13.** Amends s. 408.831, F.S., authorizing entities subject to regulation or licensure by the AHCA, and acting in accordance with an emergency plan and an authorized evacuation order, to exceed their licensed capacity to act as a receiving facility. While in an overcapacity status, each provider must furnish or arrange for appropriate care and services to all clients. Overcapacity status in excess of 15 days may be approved by the AHCA based on satisfactory justification and need as provided by the receiving and sending facility.

Under this section, an inactive license may be issued to a licensee located in a declared disaster area if the provider's operation suffered damage during the state of emergency, is currently licensed, does not have a provisional license, and is temporarily unable to provide service but is reasonably expected to resume operations within 12 months.

An inactive license may be issued for a period of up to 12 months and may be renewed for up to an additional 12 months upon demonstration of progress towards reopening. The bill provides requirements for submission of a request for an inactive license or extension of a previously approved inactive period to the AHCA. The bill provides for notification to clients of any necessary discharge or transfer as a result of granting inactive provider status and provides for a beginning date for the inactive licensure period and procedures for the reactivation of an inactive license.

**Section 14.** Creates an undesignated section of law and provides prescription medication refills under certain emergency circumstances.

**Section 15.** Provides for an effective date of July 1, 2006.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

Counties are already involved in emergency management activities and, therefore, the bill does not appear to impose significant new responsibilities upon them. The fiscal impact on counties, if any, is insignificant. The bill does not appear to require a municipality to expend funds or to take actions requiring the expenditure of funds.

##### **B. Public Records/Open Meetings Issues:**

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Art. I, s. 24(a) and (b) of the Florida Constitution.

##### **C. Trust Funds Restrictions:**

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Art. III, Subsection 19(f) of the Florida Constitution.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

Reimbursement of health care practitioners and facilities is subject to the availability of federal funds.



**C. Government Sector Impact:**

The bill does not appear to impose significant new responsibilities on counties. The fiscal impact on counties, if any, is insignificant. The bill does not appear to have a fiscal impact on municipalities.

The DCA, the DOEA, and the AHCA indicate they can carry out the provision of the bill within existing resources. According to the Executive Office of the Governor, the DOH can also carry out the provisions of this bill without any additional resources.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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## **VIII. Summary of Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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