

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.)

Prepared By: Health Care Committee

BILL: SB 252

INTRODUCER: Senators Rich, Lynn and Alexander

SUBJECT: Emergency Medical Services

DATE: January 31, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Munroe</u>	<u>Wilson</u>	<u>HE</u>	Favorable
2.	_____	_____	<u>JU</u>	_____
3.	_____	_____	<u>HA</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill provides the Department of Health (DOH or department) authority to award emergency medical services grants to youth athletic organizations and allows individual boards of county commissioners to distribute county emergency medical services grant funds to youth athletic organizations. The bill defines “youth athletic organization” as a private not-for-profit organization that promotes and provides organized athletic activities to youth.

“Automated external defibrillator device” is defined to have the same meaning as the term is defined in the Cardiac Arrest Survival Act. The Cardiac Arrest Survival Act is revised to provide that the immunity under that act does not apply to a person who acquires an automated external defibrillator (AED) device who fails to maintain and test the device or fails to provide appropriate training in the use of the device to his or her employee or agent when the employee or agent is the person who used the device on the victim. The bill requires DOH to educate persons who acquire an AED about the liability provisions of the Cardiac Arrest Survival Act.

This bill amends sections 401.107, 401.111, 401.113, and 765.1325, Florida Statutes.

II. Present Situation:

Cardiac Arrest/Automated External Defibrillators

The American Heart Association (AHA) provides the following description of cardiac arrest:

“Cardiac arrest is the sudden, abrupt loss of heart function. The victim may or may not have diagnosed heart disease...Sudden death (also called sudden cardiac death) occurs within minutes after symptoms appear.”¹

Time is of the essence in responding to cardiac arrest because brain death begins in just 4 to 6 minutes. Cardiac arrest can be reversed if it is treated within a few minutes with an electric shock to the heart to restore a normal heartbeat—a procedure known as *defibrillation*. According to AHA, a victim's chances of survival are reduced by 7 to 10 percent with every minute that passes without defibrillation, and few attempts at resuscitation succeed after 10 minutes have elapsed.

An automated external defibrillator (AED) is an electronic device that can shock a person’s heart back into rhythm when he or she is having a cardiac arrest. According to AHA, with early defibrillation of a person in cardiac arrest, the person’s possibility of survival jumps to more than 50 percent.

Section 401.2915, F.S., provides the minimum training requirements for an individual who intends to use an AED in cases of cardiac arrest, as follows:

- A person must obtain appropriate training, to include completion of a course in cardiopulmonary resuscitation or successful completion of a basic first aid course that includes cardiopulmonary resuscitation training, and demonstrated proficiency in the use of an AED;
- A person or entity in possession of an AED is encouraged to register with the local emergency medical services medical director the existence and location of the AED; and
- A person who uses an AED is required to activate the emergency medical services system as soon as possible upon use of the AED.

The section does not provide statutory definitions or minimum capabilities for such a device to be deemed an AED.

Immunity Under the Cardiac Arrest Survival Act

Section 768.1325, F.S., the Cardiac Arrest Survival Act, provides immunity from liability for a person who uses or attempts to use an AED in a perceived medical emergency. The immunity provided under s. 768.1325, F.S., to persons using or attempting to use an AED does not apply to any harm that was due to the failure of the acquirer of the device to:

- Notify the local emergency medical services medical director of the most recent placement of the AED within a reasonable period of time after the AED is placed;
- Properly maintain and test the AED; or
- Provide appropriate training in the use of the AED to an employee or agent of the acquirer when the employee or agent was the person who used the AED on the victim,

¹ See definition of “cardiac arrest” at <http://www.americanheart.org/presenter.jhtml?identifier=4481>.

except such requirement of training does not apply if: the employee or agent was not an employee or agent who would have been reasonably expected to use the AED; or the period of time elapsing between the engagement of the person as an employee or agent and the occurrence of the harm, or between the acquisition of the AED and the occurrence of the harm in any case in which the AED was acquired after engagement of the employee or agent, was not a reasonably sufficient period in which to provide the training.

The immunity under s. 768.1325, F.S., does not apply to a person if:

- The harm involved was caused by that person's willful or criminal misconduct, gross negligence, reckless disregard or misconduct, or a conscious, flagrant indifference to the rights or safety of the victim who was harmed;
- The person is a licensed or certified health professional who used the AED while acting within the scope of the license or certification of the health professional and within the scope of the employment or agency of the professional;
- The person is a hospital, clinic, or other entity whose primary purpose is providing health care directly to patients, and the harm was caused by an employee or agent of the entity who used the device while acting within the scope of the employment or agency of the employee or agent;
- The person is an acquirer of the AED who leased the device to a health care entity, or who otherwise provided the AED to such entity for compensation without selling the device to the entity, and the harm was caused by an employee or agent of the entity who used the AED while acting within the scope of the employment or agency of the employee or agent; or
- The person is the manufacturer of the AED.

Emergency Medical Services Grant Program

Part II, chapter 401, F.S., specifies requirements for emergency medical services grants. The part provides definitions. "Emergency medical services" is defined to mean the activities or services to prevent or treat a sudden critical illness or injury and to provide emergency medical care and prehospital emergency medical transportation to sick, injured, or otherwise incapacitated persons in Florida. "Local agency" is defined as the board of county commissioners. "Emergency medical services organizations" is defined as public or private entities involved in emergency medical services systems. The Emergency Medical Services Grant Program was established to assist governmental and private agencies within a service area to respond cooperatively in order to finance the systematic provision of emergency medical services to all citizens.

Under s. 401.111, F.S., DOH is authorized to dispense grant funds to local agencies and emergency medical services organizations from the Emergency Medical Services Trust Fund according to the distribution formula provided in paragraphs 401.113(a) and (b), F.S., as follows:

- Forty-five percent of the monies collected by DOH must be *divided among the counties* according to the proportion of the combined amount deposited in the trust fund from the county. An individual board of county commissioners may distribute these funds to emergency medical service organizations within the county, as it deems appropriate.

- Forty percent of the monies collected by DOH are for making matching grants *to local agencies, municipalities, and emergency medical services organizations* for the purpose of conducting research, increasing existing levels of emergency medical services evaluation, community education, injury prevention programs, and training in cardiopulmonary resuscitation and other lifesaving and first aid techniques. At least 90 percent of these monies must be made available on a cash-matching basis. Grants to *local agencies, municipalities, and emergency medical services organizations* must be contingent upon the recipient providing a cash sum equal to 25 percent of the total approved grant amount. No more than 10 percent of these moneys must be made available to rural emergency medical services, and these monies may be used for improvement, expansion, or continuation of services provided. A grant to rural emergency medical services must be contingent upon the recipient providing a cash sum equal to no more than 10 percent of the total approved grant.

According to DOH, grant applications are thoroughly reviewed. DOH receives the majority of applications for AEDs from licensed emergency medical services providers for purchase and distribution to agencies and organizations in their service areas that have a significant number of cardiac-related responses. Grant applications are reviewed and scored by a panel of EMS providers. Applications that receive a favorable score are provided funds to purchase the equipment.

III. Effect of Proposed Changes:

Section 1. Amends s. 401.107, F.S., relating to definitions for emergency medical services grants, to define “youth athletic organization” as a private not-for-profit organization that promotes and provides organized athletic activities to youth. “Automated external defibrillator device” is defined to have the same meaning as the term is defined in the Cardiac Arrest Survival Act.²

Section 2. Amends s. 401.111, F.S., relating to the Emergency Medical Services Grant Program, to include youth athletic organizations as eligible participants in the Emergency Medical Services Grant Program, and provides that the grants must be designed to assist youth athletic organizations that work in conjunction with local emergency medical services organizations to expand the use of automated external defibrillators in the community.

Section 3. Amends s. 401.113, F.S., relating to DOH powers and duties under the Emergency Medical Services Grant Program, to authorize DOH to dispense funds contained in the Emergency Medical Services Trust Fund to youth athletic organizations and to authorize individual boards of county commissioners to distribute funding under the program to youth athletic organizations.

Section 4. Amends s. 768.1325, F.S., the Cardiac Arrest Survival Act, to provide that the immunity under that act does not apply to a person who is an acquirer of an AED device who failed to maintain and test the device or failed to provide appropriate training in the use of the device to his or her employee or agent when the employee or agent is the person who used the

² See s. 768.1325(2)(b), F.S.

device on the victim. The bill requires DOH to administer an educational program for persons who acquire AEDs regarding the liability provisions of the Cardiac Arrest Survival Act.

Section 5. Provides an effective date of July 1, 2006.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Art. VII, s. 18 of the Florida Constitution.

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:

Under the bill, youth athletic organizations will be eligible for grant funds to purchase AEDs. If youth athletic organizations apply for a grant to obtain an AED, they will reduce their costs for obtaining the device. The department does not have an estimate of how many youth athletic organizations may apply for and receive grant funding under the bill.

C. Government Sector Impact:

The department has indicated that there may be a fiscal impact relating to the initial implementation and the ongoing maintenance of the educational program required under the bill to inform acquirers and users of AEDs of the circumstances under which they could lose immunity when operating an AED.

To the extent that the bill increases the number of entities authorized to participate in the Emergency Medical Services Grant Program, the department anticipates a large potential for a substantial increase in grant applications. The department reports that there may be a substantial increase in its workload to evaluate and process applications.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

VIII. Summary of Amendments:

None.

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