

# 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: Judiciary Committee

BILL: SB 274

INTRODUCER: Senator Jones

SUBJECT: Defibrillators in State Parks

DATE: March 14, 2006

REVISED: 03/16/06

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Munroe</u>	<u>Wilson</u>	<u>HE</u>	<b>Favorable</b>
2.	<u>Baum</u>	<u>Kiger</u>	<u>EP</u>	<b>Favorable</b>
3.	<u>Thompson</u>	<u>Maclure</u>	<u>JU</u>	<b>Favorable</b>
4.	<u></u>	<u></u>	<u>GA</u>	
5.	<u></u>	<u></u>	<u></u>	
6.	<u></u>	<u></u>	<u></u>	

## I. Summary:

The bill encourages each state park to have on the premises at all times a functioning automated external defibrillator (AED). The bill requires state parks that have an AED to ensure that employees and volunteers are properly trained in the use of the AED pursuant to s. 401.2915, F.S. The location of the AED must be registered with the local emergency medical services medical director. Employees and volunteers who use an AED shall be covered by the immunity granted under the Good Samaritan Act (s. 768.13, F.S.) and the Cardiac Arrest Survival Act (s. 768.1325, F.S.). The Division of Recreation and Parks (division), under the Department of Environmental Protection (DEP), is authorized to adopt rules to implement the bill.

The bill provides for a one-time appropriation during the 2006-07 fiscal year in the sum of \$92,000 from the General Revenue Fund to the division for the purpose of implementing this act and for purchasing AEDs.

This bill creates section 258.0165, Florida Statutes.

## II. Present Situation:

### State Parks

The Florida state park system consists of 159 state parks.<sup>1</sup> According to Department of Environmental Protection (DEP), the state of Florida had 1.9 million overnight campers visit state parks last year. Of the 54 camping parks, 13 had attendance greater than 200,000 last year.

<sup>1</sup> Department of Environmental Protection, Florida State Parks, at [www.dep.state.fl.us/parks](http://www.dep.state.fl.us/parks), (accessed on March 10, 2006).

The total visitors to all state parks for the 2003-04 fiscal year was over 19 million. The number of visitors in Florida state parks over the age of 45 for the same time period was over 4 million, or 21 percent of all the visitors. DEP indicates that 125 parks are staffed.<sup>2</sup> Currently, 11 state parks have either purchased, or have had donated, automated external defibrillator (AED) devices.<sup>3</sup>

### **Sudden Cardiac Arrest**

In 2003, the death rate from cardiovascular disease among Floridians age 45-85 was 577 per 1,000 deaths. 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. It's also called sudden cardiac arrest or unexpected cardiac arrest. Sudden death (also called sudden cardiac death) occurs within minutes after symptoms appear.<sup>4</sup>

Sudden cardiac arrest occurs on average at about 60 years of age. Each year, more than 350,000 Americans die from sudden cardiac arrest.

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. According to AHA, with early defibrillation of a person in cardiac arrest, the person's possibility of survival jumps to more than 50 percent.

### **Automated External Defibrillators**

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. An AED determines the patient's heart rhythm to determine if a shock should be provided, and if needed, adjusts the level of energy to deliver an appropriate shock to the patient's heart when a rescuer pushes a button. The shock stops the abnormal rhythm and allows a normal pumping action to resume. AEDs are easy to use, compact, battery-operated, lightweight, and durable.

Public access to AEDs has increased survival rates by up to 50 percent for those suffering a sudden cardiac arrest. In Florida each month, approximately two to three people are saved with an AED by a trained layperson. Many states have enacted defibrillator laws or adopted regulations regarding their use.<sup>5</sup>

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<sup>2</sup> Department of Environmental Protection Draft Bill Analysis, p. 2.

<sup>3</sup> *Id.*

<sup>4</sup> American Heart Assn., definition of "Cardiac Arrest," at <http://www.americanheart.org/presenter.jhtml?identifier=4481>.

<sup>5</sup> Peter Scalco, Department of Environmental Protection, with additional information provided by the American Red Cross.

### **Training in the Use of AEDs**

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., 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, 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.

### **Immunity Under the Good Samaritan Act**

Section 768.13, F.S., the “Good Samaritan Act,” provides immunity from civil liability to:

- Any persons, including those licensed to practice medicine, who gratuitously and in good faith render emergency care or treatment either in direct response to emergency situations related to and arising out of a public health emergency declared pursuant to s. 381.00315, F.S., or a state of emergency which has been declared pursuant to s. 252.36, F.S., or at the scene of an emergency outside of a hospital, doctor’s office, or other place having proper medical equipment. The immunity applies if the person acts as an ordinary reasonably prudent person would have acted under the same or similar circumstances.
- Any health care provider, including a licensed hospital providing emergency services pursuant to federal or state law. The immunity applies to damages as a result of any act or omission of providing medical care or treatment, including diagnosis, which occurs prior to the time that the patient is stabilized and is capable of receiving medical treatment as a non-emergency patient, unless surgery is required as a result of the emergency, in which case the immunity applies to any act or omission of providing medical care or treatment which occurs prior to the stabilization of the patient following surgery, or which is related to the original medical emergency. The act does not extend immunity from liability to acts of medical care or treatment under circumstances demonstrating a reckless disregard for the consequences so as to affect the life or health of another.
- Any health care practitioner who is in a hospital attending to a patient of his or her practice or for business or personal reasons unrelated to direct patient care, and who voluntarily responds to provide care or treatment to a patient with whom at that time the practitioner does not have a then-existing health care patient-practitioner relationship, and when such care or treatment is necessitated by a sudden or unexpected situation or by an occurrence that demands immediate medical attention, unless that care or treatment is proven to amount to conduct that is willful and wanton and would likely result in injury so as to affect the life or health of another. The immunity extended to health care practitioners does not apply to any act or omission of providing medical care or treatment unrelated to the original situation that demanded immediate medical attention.

### **III. Effect of Proposed Changes:**

The bill creates s. 258.0165, F.S., titled “Defibrillators in state parks” to:

- Encourage each state park to have a functioning Automated External Defibrillator (AED) on the premises at all times;
- Require state parks that provide AEDs to ensure that employees and volunteers are properly trained in accordance with s. 401.2915, F.S.;
- Require the location of an AED to be registered with a local emergency medical services medical director; and
- Provide that any use of an AED by employees and volunteers shall be covered under the Good Samaritan Act and the Cardiac Arrest Survival Act.

The bill authorizes the Division of Recreation and Parks (division) of the Department of Environmental Protection (DEP) to adopt rules to implement the bill. The bill appropriates a sum of \$92,000 for the fiscal year 2006-07 from the General Revenue Fund to the division for the purpose of implementing the act and purchasing AEDs.

The effective date of the bill is July 1, 2006.

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

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill will benefit the successful bidder on a contract to provide up to \$92,000 worth of AEDs to state parks.

C. Government Sector Impact:

The bill appropriates a sum of \$92,000 for the fiscal year 2006-07 from the General Revenue Fund to the Division of Recreation and Parks for the purpose of implementing the act and purchasing AEDs.

According to the Division of Emergency Medical Operations within the Department of Health, concerning bids for AEDs, it is estimated that each AED will cost between \$800 and \$1,700. These costs are for the AED only and do not include extra parts or maintenance. The appropriation should allow the Division of Recreation and Parks to purchase between 54 and 115 AEDs. The division will incur a recurring expense to replace AEDs when they no longer work, wear out, or become outdated because of advances in AED technology. Such expense is unknown due to the variables associated with each AED repair.

Failure to comply with requirements of the Good Samaritan Act and the Cardiac Arrest Survival Act may still result in liability for the agency for the acts of employees and volunteers who use AEDS.

**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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