

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: CS/HB 1395 City of Marco Island, Collier County
SPONSOR(S): Government Accountability Committee; Rommel
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	12 Y, 0 N	Darden	Miller
2) Health & Human Services Committee	15 Y, 1 N	Gilani	Calamas
3) Government Accountability Committee	22 Y, 0 N, As CS	Darden	Williamson

SUMMARY ANALYSIS

Providers of basic and advanced life support services operate under a license issued by the Department of Health (DOH). DOH must issue the license if the provider pays required fees, has equipment that meets departmental standards, maintains insurance providing coverage for injury, death, and property damage, and possesses a certificate of public convenience and necessity (COPCN) issued by the county in which the provider is providing services.

The bill authorizes DOH to issue the City of Marco Island a license to provide basic and advanced life support services without the city obtaining a COPCN from Collier County provided the City meets certain conditions. The City must apply to the County for a COPCN and the application must be unapproved. There must be a third party financial analysis of the City's assumption of full emergency medical transport services. A majority of the electors voting in the referendum provided in the bill must approve the City's assumption of the additional services. Finally, the City must meet the other statutory requirements for the issuance of a license.

The bill takes effect upon approval by the electors of the City of Marco Island voting in a referendum held in conjunction with a primary election held on August 28, 2018.

Pursuant to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) appear to apply to this bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Licensure of Basic and Advanced Life Support Services

Providers of basic and advanced life support services must be licensed before providing services to the public.¹

Basic life support is assessment or treatment provided by a qualified person using techniques described in the EMT-Basic National Standard Curriculum or the National EMS Education Standards of the Department of Transportation.² Basic life support services also include the administration of oxygen and other techniques approved and performed under conditions specified by Department of Health (DOH) rules. A basic life support ambulance transporting a patient must be occupied by a patient attendant who is a certified emergency medical technician, certified paramedic, or licensed physician and an ambulance driver who meets the requirements of s. 401.281, F.S.³

Advanced life support is assessment or treatment provided by a qualified person using techniques such as endotracheal intubation, the administration of drugs or intravenous fluids, telemetry, cardiac monitoring, cardiac defibrillation, and other techniques described in the EMT-Paramedic National Standard Curriculum or the National EMS Education Standard.⁴ An advanced life support ambulance transporting a patient must be occupied by a certified paramedic or licensed physician, as well as a certified emergency medical technician, certified paramedic, or licensed physician who also meets the ambulance driver requirements of s. 401.281, F.S.⁵ Patient care is supervised by the person with the highest medical certifications.

DOH is required to issue a license to any provider who meets the following criteria:⁶

- The provider has paid the licensing fee required by s. 401.34, F.S.;⁷
- The provider's ambulances, equipment, vehicles, personnel, communications systems, staffing patterns, and services meet the requirements of ch. 401, F.S., including DOH rules for providing basic or advanced life support service;
- The provider has adequate insurance coverage for claims related to injury or death of persons or damage to the property of others for which the provider would be liable or provide a certificate of self-insurance showing the provider has established an adequate self-insurance plan to cover risks (the self-insurance plan must be approved by the Office of Insurance Regulation of the Financial Services Commission); and
- The provider has obtained a certificate of public convenience and necessity (COPCN) from each county in which the provider will operate.

DOH may suspend or revoke a license if a provider fails to maintain compliance with the requirements.⁸ A license is valid for two years and may be renewed subject to the requirements for initial licensure in effect at the time of renewal.⁹

¹ Section 401.25(1), F.S.

² Section 401.23(7), F.S.

³ Section 401.25(7)(a), F.S. This requirement does not apply to interfacility transfers governed by s. 401.252(1), F.S.

⁴ Section 401.23(1), F.S.

⁵ Section 401.25(7)(b), F.S. This requirement does not apply to interfacility transfers governed by s. 401.252(1), F.S.

⁶ Section 401.25(2), F.S.

⁷ The fees for basic and advanced life support are \$660 and \$1,375, respectively.

⁸ Section 401.25(3), F.S.

⁹ Section 401.25(4), (5), F.S.

Certificate of Public Convenience and Necessity

A Certificate of Public Convenience and Necessity (COPCN) is a written statement, issued by the governing board of a county, granting permission for an emergency medical service provider to provide authorized services for the benefit of the population of that county or the benefit of the population of some geographic area of that county.¹⁰ At the time of licensure, each provider of life support transportation services must have a COPCN from each county in which the provider intends to operate.¹¹

The governing body of each county may adopt ordinances providing reasonable standards for the issuance of a COPCN for basic or advanced life support services.¹² The standards must consider state guidelines, the recommendations of the local or regional trauma agency created under ch. 395, F.S., and the recommendations of municipalities in the county.

As of 2016, at least 38 of Florida's 67 counties have adopted ordinances to establish the procedure and set the standards for obtaining a COPCN.¹³ Although the COPCN ordinances vary from county to county, these ordinances generally provide instructions on the application process, criteria on which the application may be evaluated, and procedures for appealing a denial, suspension, or revocation of a COPCN.¹⁴

Advanced Life Support Services in the City of Marco Island

The City of Marco Island Fire-Rescue Department currently provides advanced life support services under the guidance of Collier County Emergency Medical Services.¹⁵ Collier County Emergency Medical Services provides all transport of patients.

Collier County held a non-binding referendum in March 2016 to consolidate all emergency response in the unincorporated areas of the county into a single district.¹⁶ Marco Island officials have expressed concern the new district would transfer assets from the city to the county by placing the city in a position where consolidation is the only alternative, resulting in lower levels of service.¹⁷ Collier County was previously engaged in litigation with the North Collier Fire Control and Rescue District concerning the provisions of advanced life support services by that district.¹⁸ This litigation resulted from Collier County not renewing the COPCN of the North Collier Fire Control and Rescue District.

¹⁰ Rule 64J-1.001(4), F.A.C.

¹¹ Section 401.25(2)(d), F.S.

¹² Section 401.25(6), F.S.

¹³ Municode, *Library, Florida*, <https://www.municode.com/library/fl> (last visited Feb. 12, 2018).

¹⁴ *Id.* See, e.g. Volusia County Code of Ordinances Chapter 46 (Emergency Services); St. Johns County Ordinance No. 2012-20. Some counties have adopted policies or informal procedures to award COPCNs, but have not enacted an ordinance.

¹⁵ Lisa Conley, *Collier County, Marco Island officials meet for first time in a few years*, Naples Daily News, May 11, 2017, available at <http://www.naplesnews.com/story/news/local/2017/05/11/collier-county-marco-island-officials-meet-first-time-few-years/101560012/> (last accessed Jan. 15, 2018).

¹⁶ *Id.* See also 2016 Presidential Preference Primary, Collier County Supervisor of Elections, <https://www.colliervotes.com/Election-Results/Past-Results> (last accessed Jan. 15, 2018).

¹⁷ *Id.*

¹⁸ Brett Batten, *Marco sets ambulance process in motion*, Naples Daily News, Feb. 17, 2016, available at <http://www.naplesnews.com/story/news/columnists/brett-batten/2016/02/17/brett-batten-marco-sets-ambulance-process-in-motion/85592198/> (last accessed Jan. 15, 2018). The litigation was settled on March 22, 2016. Letter from Dwight Brock, Clerk of the Circuit Court, Collier County to Margaret Hanson, Secretary-Treasurer, North Naples Fire Control and Rescue District, Re: Settlement Agreement between North Collier Fire Control and Rescue District and the Board of County Commissioners of Collier County, Florida, dated March 23, 2016. A copy of this letter is on file with the Local, Federal & Veterans Affairs Subcommittee.

Effect of Proposed Changes

The bill creates an exception to general law (s. 401.25, F.S.). The bill authorizes DOH to issue the City of Marco Island a license to provide basic and advanced life support services without the city obtaining a COPCN from Collier County, as long as the city meets the following conditions:

- The City applies to the Board of County Commissioners for a COPCN and that application is unapproved.
- A third party financial analysis is prepared on the City's assumption of full emergency medical service transport services at the paramedic level.
- A majority of the electors voting in the referendum provided in the bill vote to approve for the City to assume full emergency medical service transport services at the paramedic level.

The bill provides that if the City meets all of the criteria provided in the bill and the requirements of s. 401.25, F.S., then DOH may issue a license to the City to enable its Fire Rescue Department to provide prehospital or interfacility advanced life support services or basic life support transportation services.

The bill provides that the act does not prevent DOH from enforcing any other provision of ch. 401, F.S., in connection with the application or grant of license to the City.

B. SECTION DIRECTORY:

Section 1: Authorizes DOH to issue a license to provide basic and advanced life support services to the City of Marco Island without a COPCN being issued by Collier County, if the City meets the specific criteria in the bill.

Section 2: Provides that the bill does not limit the ability of DOH to enforce any other provision of ch. 401, F.S., in connection with the application or grant of a license to the City of Marco Island to provide emergency medical transportation services.

Section 3: Provides that the bill takes effect upon approval by the electors of the City of Marco Island voting in a referendum held at the primary election on August 28, 2018.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

WHERE?

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? During a general, special, or other election to be held in the City of Marco Island no later than August 28, 2018.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Pursuant to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) appear to apply to this bill.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 22, 2018, the Government Accountability Committee adopted one amendment and approved the bill as a committee substitute. The amendment created additional criteria the City must meet in order to obtain a license from DOH without a CPOCN issued by Collier County, including the submission of a COPCN application that is unapproved, the preparation of a third party financial analysis, and the requirement that the electors voting in the referendum must expressly vote on whether the City may assume the additional emergency services discussed in the bill. The amendment also required the referendum to be conducted in conjunction with the primary election on August 28, 2018.

This analysis is drafted to the committee substitute as approved by the Government Accountability Committee.