



Committee:

HEALTH AND HUMAN SERVICES APPROPRIATIONS

Senator Peaden, Chair
Senator Rich, Vice Chair

Meeting Packet

Monday, April 19, 2010

10:30—11:30 a.m.

Toni Jennings Committee Room, 110 Senate Office Building

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
HEALTH AND HUMAN SERVICES APPROPRIATIONS
Senator Peaden, Chair
Senator Rich, Vice Chair

MEETING DATE: Monday, April 19, 2010
TIME: 10:30—11:30 a.m.
PLACE: Toni Jennings Committee Room, 110 Senate Office Building

MEMBERS: Senator Peaden, Chair; Senator Rich, Vice Chair; Senators Gaetz, Haridopolos, Negron, and Sobel

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 146 Finance and Tax / Rich (Similar H 153)	Senior Services/Independent Special Districts [WPSC] CA 02/02/2010 Fav/1 Amendment CF 03/04/2010 Favorable FT 03/16/2010 Fav/CS HA 04/06/2010 Temporarily Postponed HA 04/19/2010 WPSC	
2	CS/SB 400 Criminal Justice / Fasano (Identical CS/H 229, Compare H 917, S 1040)	Programs to Prevent Violence [SPSC] HR 01/19/2010 Fav/1 Amendment CJ 03/09/2010 Fav/CS HA 04/19/2010	
3	CS/SB 816 Higher Education / Aronberg (Similar CS/H 491)	Teaching Nursing Homes [SPSC] HR 03/18/2010 Fav/1 Amendment HE 04/07/2010 Fav/CS HA 04/19/2010	
4	CS/CS/SB 966 Criminal Justice / Health Regulation / Joyner (Similar CS/CS/H 633) (If Received)	Massage Services [SPSC] HR 03/18/2010 Fav/CS CJ 04/07/2010 Fav/CS HA 04/19/2010 If received	
5	CS/SB 1036 Finance and Tax / Peaden (Identical CS/H 767) (If Received)	Discretionary Sales Surtaxes [WPSC] HR 04/07/2010 Fav/1 Amendment FT 04/13/2010 Fav/CS HA 04/19/2010 If received WPSC	
6	CS/CS/SB 1216 Community Affairs / Children, Families, and Elder Affairs / Negron (Compare H 1227)	Children's Services [SPSC] CF 03/04/2010 CF 03/18/2010 Fav/CS CA 04/07/2010 Fav/CS FT 04/13/2010 Favorable HA 04/19/2010	

COMMITTEE MEETING EXPANDED AGENDAHealth and Human Services Appropriations
Monday, April 19, 2010, 10:30 —11:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	CS/SB 1734 Higher Education / Oelrich (Identical H 1489)	Emergency Medical Services Personnel/Training/HIV [SPSC] HR 04/07/2010 Favorable HE 04/13/2010 Fav/CS HA 04/19/2010 If received	
8	CS/SB 1818 Health Regulation / Health Regulation (Compare CS/H 509, CS/S 760)	Blood Establishments [SPSC] HR 03/09/2010 Fav/CS CA 04/14/2010 Favorable HA 04/19/2010	
9	CS/SB 2100 Health Regulation / Wise (Similar CS/H 889, H 947, Compare H 593, H 861, CS/CS/CS/S 620, S 1954)	Biomedical and Social Research [SPSC] HR 03/18/2010 Fav/CS HE 04/07/2010 Favorable HA 04/19/2010	

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Health and Human Services Appropriations Committee

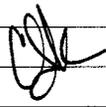
BILL: CS/SB 146

INTRODUCER: Finance and Tax Committee and Senator Rich

SUBJECT: Senior Services/Independent Special Districts

DATE: April 15, 2010

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wolfgang	Yeatman	CA	Fav/1 amendment
2.	Walsh	Walsh	CF	Favorable
3.	Fournier	McKee	FT	Fav/CS
4.	Kynoch 	Hansen <i>MH</i>	HA	Pre-meeting
5.			WPSC	
6.				

Please see Section VIII. for Additional Information:

- A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes
- B. AMENDMENTS..... Technical amendments were recommended
- Amendments were recommended
- Significant amendments were recommended

I. Summary:

This bill authorizes counties to create by ordinance an independent special district to provide senior services throughout the county. In order to levy ad valorem taxes to fund the independent special district, the county governing body must obtain approval from the majority of electors in the county voting on the question. The bill provides the membership of a governing council, powers and duties of the council, and reporting requirements.

This bill creates an undesignated section of law and directs the Legislature's Division of Statutory Revision to place the act in part V of chapter 125, Florida Statutes.

This bill has no fiscal impact to the state. The Department of Elder Affairs has indicated various waiver waitlists may decline to the extent additional services become available to seniors residing in the counties where the independent special districts are established in the future.

II. Present Situation:

Special Districts in Florida

The Florida Constitution specifically provides for four types of local governments: counties, municipalities, school districts, and special districts. The 67 counties are subdivisions of the state, and provide a variety of core services through constitutional officers (county commissioners, sheriff, tax collector, property appraiser, supervisor of elections, and clerk of the court) pursuant to authority granted in the constitution and consistent with general law.¹ The 67 school districts are coterminous with the boundaries of the county. Each school district is governed by a school board that is responsible for the operation, control and supervision of all free public schools within the district.² Florida's more than 400 municipalities exist pursuant to charters established by law and approved by the electorate in a referendum. They possess "home rule" authority to provide traditional municipal services, to the extent consistent with their charges and not inconsistent with general law.³ The State Constitution limits the property taxing authority of each of these forms of government to a maximum of 10 mills⁴ on the assessed value of real and tangible personal property.⁵

Section 189.403(1), F.S., provides that a special district is "a local unit of special purpose, as opposed to general-purpose, government, within a limited boundary, created by general law, special act, local ordinance, or by rule of the Governor and Cabinet." Special districts are limited-purpose units of local government. Their property tax millage is limited by general law and subject to referendum approval by the affected electorate.⁶ Special districts are subject to the same restrictions on credit,⁷ bonding,⁸ elections,⁹ public records and meetings,¹⁰ as are counties, municipalities, and school districts.¹¹

Special districts are either dependent or independent districts. Special districts operate within a limited geographical area and have a governing board with policy-making powers. A special district does not include: a school district, community college, municipal service taxing or benefit unit (MSTU/MSBU), or a board providing electrical service that is a political subdivision of a municipality or part of a municipality.

All special districts serve a public purpose and are to be held accountable to the public, local general-purpose governments, and state agencies. Special districts are subject to financial reporting requirements, which are an essential element of the law.

¹ Art. VIII, § 1, Fla. Const.

² Art. IX, § 4(a), Fla. Const.

³ Art. VIII, § 2 Fla. Const.

⁴ A "mill" is equal to \$1 for each \$1,000 of assessed value.

⁵ Art. VII, § 9, Fla. Const.

⁶ Art. VII, § 9, Fla. Const.

⁷ Art. VII, § 10, Fla. Const.

⁸ Art. VII, § 12, Fla. Const.

⁹ Art. VI, § 6, Fla. Const.

¹⁰ Art. I, § 24, Fla. Const.

¹¹ Art. VII, § 8, Fla. Const.

For financial reporting and other purposes, special districts are classified as either dependent or independent. A district is usually dependent if a single county or single municipality:

- has an identical governing board,
- appoints the governing board,
- may remove governing board members at will during unexpired terms,
- approves the budget, or
- may veto the budget.

Otherwise, the district is an independent district. Independent districts can sometimes occupy multiple counties. Florida currently has 1,011 independent districts and 614 dependent districts. Special districts include the five water management districts, community development districts, community redevelopment districts, drainage and water control districts, housing authorities, fire control and rescue, and soil and water conservation districts,¹² as well as districts that provide a variety of governmental services pertaining to airports, the arts, beach restoration, expressways and bridges, health care, housing, juvenile welfare, libraries, mosquito control, and transportation.

Children's Services District

Section 125.901, F.S., authorizes counties to create by ordinance an independent or dependent special district to provide funding for preventative, development, treatment, and rehabilitative services for children throughout the county. Upon approval by the electors in the county, the district may annually levy ad valorem taxes, not to exceed 0.5 mills. In addition, this section provides a governing board for the district, the powers and functions of the board, requires each board to identify and assess the needs of the children in the county served by the board, requires the board to provide an annual written report to the governing body of the county, provides for the preparation of a budget and the filing of a financial report with the governing body of the county, and provides for dissolution of the district. There are 10 Children's Services Districts in the state.¹³

Health Care District

Section 154.331, F.S., authorizes counties to create, by ordinance, an independent or dependent special district to provide funding for indigent and other health and mental health care services throughout the county. Upon approval by the electors in the county, the district may annually levy ad valorem taxes, not to exceed 0.5 mills. In addition, this section creates an appointed governing board for the special district, specifies the powers and functions of the board, requires the board to prepare a budget and to prepare and file financial reports with the governing body of the county, and provides for dissolution of the district. There are 6 Health Care Districts in the state.¹⁴

¹² DEPARTMENT OF COMMUNITY AFFAIRS, OFFICIAL LIST OF SPECIAL DISTRICTS ONLINE, available at, www.floridaspecialdistricts.org.

¹³ <http://www.floridaspecialdistricts.org/OfficialList/index.cfm>

¹⁴ <http://www.floridaspecialdistricts.org/OfficialList/index.cfm>

III. Effect of Proposed Changes:

The bill authorizes counties to create by ordinance an independent district to provide funding for seniors' services throughout the county. These provisions are modeled on similar statutory provisions for Children's Services Districts and Health Care Districts.

Section 1 Subsection (1), defines "senior" as a person at least 60 years of age.

Subsection (2) provides the following:

- Each county is authorized to create an independent special district by ordinance to provide county-wide funding for senior services.
- The boundaries of the special district are coterminous with the boundaries of the county in which the district is created.
- The county governing body must by referendum obtain the approval of a majority of the electors voting on the issue to levy ad valorem taxes not to exceed 0.5 mills of assessed value of all properties subject to ad valorem taxation within the county.
- The independent special district shall levy and fix millage as provided in s. 200.065, F.S.
- The special district is required to maintain the same fiscal year as the county.
- The special district must file all required financial or compliance reports under part III of chapter 218, F.S.¹⁵
- The district must comply with the provisions of s. 189.415, F.S., relating to public facilities reports; the provisions of s. 189.417, F.S., relating to meeting notices; and the provisions of s. 189.418, F.S., relating to reports, budgets, and audits.
- The special district may be dissolved by a special act of the Legislature, by ordinance adopted by the county governing body subject to the approval of the electorate, and by the dissolution provisions of s. 189.4042, F.S.
- Prior to dissolution, the county must obligate itself to assume the debts, liabilities, contracts, and outstanding obligations of the special district within the total millage available to the county for all county and municipal purposes.
- A county is not prohibited from exercising such power as provided by general law or by a special law to provide or fund services for seniors.

Subsection (3) provides that the district will be governed by a ten-member council consisting of:

- Four permanent positions:
 - the executive director of the area agency on aging or a designee who is a director of senior programs in the county;
 - the county director of social services or a designee who is a director of elderly services;
 - the director of the Department of Children and Families' Adult Services Program or a designee; and
 - the Department of Health's statewide services administrator or a senior administrator of the county health department.

¹⁵ Part III, chapter 218, F.S., requires independent special districts to file an annual financial report with the Department of Financial Services no later than April 30. In addition, any special district with revenues and expenditures between \$50,000 and \$100,000 must undergo a financial audit of its accounts and records within a 12 month period after the end of the fiscal year. The audit must be performed by an independent certified public accountant and is conducted only if the special district has not been subject to an audit conducted by the Auditor General within the two preceding fiscal years.

- Two members appointed for two-year terms by a majority of the county governing body, one representing the board of county commissioners and one who is the county representative of the Florida League of Cities.
- Four members appointed by the Governor and representing the cultural diversity of the county's population. One of these members must be at least 60 years of age. All appointees must have been county residents during the previous 24 months.
 - The county governing body must submit three names to the Governor for each vacancy, and the Governor must make a selection within 45 days of receipt of the names or request a new list of candidates.
 - Appointees serve 4-year terms and may be reappointed for one additional term.
 - Initial appointments are staggered.
 - The Governor may remove his or her appointee for cause or upon the written petition of the county governing body. Upon resignation, death, or removal of a member appointed by the Governor, the vacancy shall be filled using the same method as the original appointment and for the unexpired length of the term.
- Council members may not receive compensation for services.

Subsection (4) provides that the council must:

- Elect a chair, a vice chair, and other officers deemed necessary immediately after all council members are appointed.
- Immediately after members are appointed and officers are elected, identify and assess the needs of seniors within the county and submit a written report to the county governing body that describes:
 - The activities, services, and opportunities that will be provided to seniors.
 - The manner in which services will be provided, including a description of arrangements and agreements which will be made with community organizations, state and local education agencies, federal agencies, public assistance agencies, the court system, guardianship groups, and other applicable public and private agencies and organizations.
 - The anticipated schedule for providing services.
 - Special outreach efforts which will be taken to provide services to seniors who are at-risk, abused, neglected, or ailing.
 - How the council will seek and obtain funding for unmet needs.
 - The strategy for interagency coordination to maximize existing human and fiscal resources.
- Provide training and orientation for new council members.
- Develop and adopt bylaws and rules for the council's guidance, operation, governance and maintenance which are consistent with other relevant laws and ordinances.
- Provide an annual written report to the county governing body by January 1 containing:
 - Information on the effectiveness of the council's activities, services, and programs.
 - A detailed, anticipated budget for continuation of services, activities, and programs.
 - A list of all sources of funding.
 - Procedures used to identify at-risk or special needs seniors who need additional or continued services, and how those additional or continued services will be provided.
 - A description of how the council's objectives and activities are consistent with the goals of the act.
 - Detailed information on programs, services, and activities available to seniors.

- Information on programs, services, and activities that should be continued, eliminated, or added to the council's responsibilities.
- Maintain minutes of each meeting, including a record of all votes cast, and make the minutes of the meetings available to any person who asks.

Subsection (4) also provides that the council may:

- Provide and maintain in the county the preventative, developmental, treatment, and rehabilitative services for seniors which the council deems are necessary.
- Allocate and provide funds to other county agencies that operate for the benefit of seniors.
- Collect information and statistical data and conduct research and assessments that are helpful in determining the needs of seniors in the county.
- Consult and coordinate with other agencies to prevent the duplication of services.
- Seek grants from state, federal, and local agencies and accept donations.
- Lease or buy real estate, equipment, or personal property and construct buildings as needed to perform the business of the council. Purchases may not be made or buildings constructed unless paid for with cash on hand or secured by funds deposited in a financial institution.
- Employ, pay, and provide benefits for any part-time or full-time personnel necessary for the district to perform its duties.
- Enter into a cooperative agreement with another council to share administrative costs, and to seek grants, accept donations, or jointly fund programs serving multicounty areas. Each district must adequately account for separate and joint funds.

Subsection (5) provides that with respect to the council budget, the council must:

- On or before July 1 of each year, prepare a tentative annual written budget of the district's expected income and expenditures, including a contingency fund.
- Compute a proposed millage rate not to exceed 0.5 mills of assessed value necessary to fund the tentative budget.
- Prior to adopting a final budget, comply with s. 200.065, F.S., relating to the method for fixing millage, and fix the final millage rate by resolution of the council.
- After the district budget is certified and delivered to the county governing body, the budget may not be changed or modified by the governing body or any other authority.
- As soon after collection as is reasonably practicable, all taxes collected must be paid directly to the district by the county's revenue-collection entity.
- All moneys received by the district must be deposited into qualified public depositories, as defined in s. 280.02, F.S.,¹⁶ with separate and distinguishable accounts established specifically for the council.

¹⁶ Section 280.02(26), F.S., defines "qualified public depository" as any bank, savings bank, or savings association that:

- (a) Is organized and exists under the laws of the United States, the laws of this state or any other state or territory of the United States.
- (b) Has its principal place of business in this state or has a branch office in this state which is authorized under the laws of this state or of the United States to receive deposits in this state.
- (c) Has deposit insurance under the provision of the Federal Deposit Insurance Act, as amended, 12 U.S.C. s. 1811 et seq.
- (d) Has procedures and practices for accurate identification, classification, reporting, and collateralization of public deposits.
- (e) Meets all the requirements of this chapter.
- (f) Has been designated by the Chief Financial Officer as a qualified public depository.

- Funds may only be withdrawn by checks signed by the council chair and countersigned by one other council member or by a chief executive officer authorized by the council.
- Upon taking office, the chair and the other person authorized to sign checks must each file a surety bond in the sum of at least \$1,000 for each \$1 million, or portion thereof, of the district's annual budget, which shall be conditioned upon the faithful discharge of duties. The district may pay the bond premium. Other council members may not be required to give bond.
- Funds of the district may only be expended by check, except expenditures from a petty cash account that may not exceed \$100. All petty cash expenditures must be recorded. With the exception of petty cash expenditures, funds of the district may not be expended without prior approval of the council.
- The council must file quarterly financial reports, within 10 days from the end of the quarter, reporting on the council's:
 - Total receipts and expenditures for the quarter.
 - Total funds on hand, total funds invested, and total funds deposited.
 - Total administrative costs for the quarter.
- The council may not require any service provider to provide matching funds.
- Funds collected under the act may not be used as a substitute for existing resources used to fund senior services.

Section 2 directs the Division of Statutory Revision to place the provisions of the act in part V of chapter 125, Florida Statutes, and to appropriately retitle that part.

Section 3 provides that the act will take effect July 1, 2010.

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 Article VII, Section 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 Article I, Section 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 Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

Subject to approval by a majority of the voters, the bill authorizes counties to create independent special districts by ordinance with the authority to levy ad valorem taxes up to 0.5 mills to raise revenue to provide senior services.

B. Private Sector Impact:

Property owners living within a county that establishes a senior services district will pay additional property taxes. Seniors living in a county that establishes such a district may receive increased services.

C. Government Sector Impact:

This bill has no fiscal impact to the state. The Department of Elder Affairs has indicated various waiver waitlists may decline to the extent additional services become available to seniors residing in the counties where the independent special districts are established in the future.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Finance and Tax Committee on March 16, 2010:**

The committee substitute clarifies the process by which a county governing board must obtain approval by a majority of the voters to establish an independent senior services district with authority to levy property taxes up to 0.5 mills.

B. Amendments:

None.

that will be available for services to rape victims statewide. In addition, the \$100 surcharge increase is expected to produce \$1,010,625 in additional revenues that will be available for services to victims of domestic violence.

This bill amends sections 794.056, 938.08, and 938.085, F.S.

This bill reenacts sections 20.435 and 794.055, F.S., for purposes of incorporating the amendments made by the bill to ss. 794.056 and 938.085, F.S.

II. Present Situation:

In 2003, the Florida Legislature enacted the “Sexual Battery Victims’ Access to Services Act”¹ and created the Rape Crisis Program Trust Fund within the Department of Health (DOH).² The Act established a funding system that imposed a \$151 surcharge assessed on offenders convicted of sexual battery and other offenses, including many of the aggravated battery and other battery offenses. The clerk of the court retains \$1 of the surcharge as a service fee,³ \$150 goes into the Rape Crisis Program Trust Fund.

Under s. 794.055, F.S., the DOH must contract with a statewide nonprofit association to distribute these funds for the provision of sexual battery recovery services. The DOH contracts with the Florida Council Against Sexual Violence, Inc. (FCASV), a statewide nonprofit organization committed to victims and survivors of sexual violence and the rape crisis centers that serve them. The FCASV subcontracts with rape crisis centers throughout Florida to serve victims and to enhance services.

According to the DOH, from September 2003 to June 2009 county clerks deposited \$7,528,899 into the trust fund. In 2008-2009, the FCASV received \$396,585 to provide statewide initiatives in support of victims, while 31 certified rape crisis centers received \$1,586,339 to serve 8,932 new primary and secondary victims and 26,575 victims who were first seen prior to July 2008, but continued to receive services. These victims received 130,391 sexual battery recovery services.

In 2008, the Florida Department of Law Enforcement reported 10,823 forcible sex offenses and 2,976 arrests.⁴ According to national researchers, approximately one out of every nine adult women in Florida has been the victim of forcible rape, which equates to over 700,000 women in Florida (Ruggiero and Kilpatrick, 2003). Many victims fear disgrace if they tell family and friends about the abuse, and suffer alone (Jewkes, Sen, and Garcia-Moreno, 2002).⁵

Section 938.08, F.S., assesses a surcharge of \$201 upon offenders convicted of sexual battery, numerous assault and battery offenses, as well as domestic violence offenses. Payment of the

¹ See section 794.055, F.S.

² See section 794.056, F.S.

³ See section 938.085, F.S.

⁴ The Sexual Battery Victims’ Access to Services Act Rape Crisis Program Trust Fund - Rape Crisis Services in Florida issued by the Division of Family Health Services Sexual Violence Prevention Program, 2010, the Florida Department of Health.

⁵ Id.

surcharge is a condition of probation, community control, or any other court-ordered supervision. The clerk of the court retains \$1 of the surcharge as a service fee, with \$85 of the surcharge being deposited into the Domestic Violence Trust Fund. The remainder of the surcharge goes to the governing board of the county and can only be used to defray incarceration costs of specified domestic violators and to provide additional training for law enforcement to combat domestic violence.

III. Effect of Proposed Changes:

The bill requires an additional court cost or surcharge of \$151 to be assessed against a defendant who pleads guilty or nolo contendere to, or is found guilty of, regardless of adjudication, any of the newly enumerated criminal offenses. (Currently, this surcharge is assessed against a smaller pool of criminal offenders under s. 938.085, F.S.) The additional surcharges must be deposited into the Rape Crisis Program Trust Fund. They will be used to fund rape crisis centers statewide.

The newly enumerated offenses subject to this surcharge will include the following: predicate offenses for sexual predators; luring and enticing a child; human trafficking; human smuggling; unlawful sexual activity with certain minors; female genital mutilation; procuring a minor for prostitution; selling or buying minors into sex trafficking or prostitution; sex trafficking; forcing or coercing another to become a prostitute; deriving support from prostitution proceeds; renting space to be used for prostitution; buying prostitution services; exposing sexual organs; voyeurism; home-invasion robbery; home or private business invasion by false personation; abuse, aggravated abuse, and neglect of an elderly person or disabled adult; lewd or lascivious offenses committed against an elderly person or disabled person; sending written threats to kill or do bodily injury; computer pornography; transmitting pornography electronically; selling or buying minors to visually depict sexually explicit conduct; and sexual offender predicate offenses.

The bill also adds offenses relating to human trafficking, human smuggling, lewd and lascivious acts committed upon or in the presence of an elderly person or disabled person, and written threats to kill or do bodily injury to the list of offenses for which the court must impose a surcharge to fund domestic violence programs under s. 938.08, F.S.

Furthermore, the bill increases the amount of the surcharge from \$201 to \$301, with the increase of \$100 going into the Domestic Violence Trust Fund under s. 741.01, F.S. (Currently, \$85 of the surcharge goes into this trust fund.) The remainder will be used by the governing board of the county to defray incarceration costs of certain domestic violators and to provide additional training for law enforcement to combat domestic violence.

The effective date of the bill is July 1, 2010.

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 Article VII, Section 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 Article I, Section 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 Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

Defendants pleading guilty or nolo contendere to, or found guilty of, regardless of adjudication, the crimes enumerated in the bill under s. 938.085, F.S., will be assessed an additional surcharge of \$151 to fund rape crisis centers. A surcharge increase of \$100 will also be imposed upon certain specified offenders to fund domestic violence programs under s. 938.08, F.S. The surcharge collected will be \$301 rather than \$201.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The assessments collected under the bill will provide additional revenue to fund rape crisis centers and domestic violence services in Florida. According to the Florida State Court Systems, the additional assessments to be deposited into the Rape Crisis Program Trust Fund under the bill will generate an estimated \$283,500 (at a collection rate of 31 percent) in additional revenue.

The additional \$100 surcharge to be deposited into the Domestic Violence Trust Fund is estimated by the Florida State Court Systems to generate \$1,010,625 (at a collection rate of 32 percent) in increased revenue. Declining revenues in recent years have produced a deficit of \$3,773,871 in this trust fund for Fiscal Year 2010-2011. The additional \$1,010,625 will reduce this deficit to \$2,763,246.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Criminal Justice on March 9, 2010:

- Adds offenses relating to human trafficking, human smuggling, lewd and lascivious acts committed upon or in the presence of an elderly person or disabled person, and written threats to kill or do bodily injury to the list of offenses for which the court must impose a surcharge to fund domestic violence programs under s. 938.08, F.S.
- Increases the amount of the domestic violence surcharge from \$201 to \$301, with the increase of \$100 going into the Domestic Violence Trust Fund under s. 741.01, F.S. (The increased surcharge going into the Fund will be \$185, rather than \$85.)

- B. **Amendments:**

None.

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

The Gold Seal Program is established in s. 400.235, F.S., to award and recognize nursing facilities that demonstrate excellence in long-term care over a sustained period. The program was developed and is implemented by the Governor's Panel on Excellence in Long-Term Care. In order for a nursing home facility to be considered for a gold seal award, the facility must have been licensed and operating for 30 months without a conditional license and no Class I or Class II deficiencies. The panel evaluates nominees based on quality of care issues, evidence of financial soundness and stability, consumer satisfaction, evidence of involvement of families and members of the community in the facility on a regular basis, workforce stability, the facility record regarding the number and types of substantiated complaints, and targeted in-service training to meet needs identified by internal or external quality assurance efforts. The panel makes recommendations to the Governor, who then makes the awards, if appropriate. Currently a nursing home designated as a Gold Seal facility may seek approval to provide certified nursing assistant training as prescribed by federal regulations and state rules.¹ There are currently 16 nursing homes that have a Gold Seal award.²

Teaching Nursing Homes

Teaching nursing homes are authorized in s. 430.80, F.S. A teaching nursing home is a licensed nursing facility that contains a minimum of 400 licensed nursing home beds; has access to a resident senior population of sufficient size to support education, training, and research relating to geriatric care; and has a contractual relationship with a federally funded accredited geriatric research center in Florida.

To be designated as a teaching nursing home, the nursing home must:

- Provide a comprehensive program of integrated senior services that includes institutional services and community-based services;
- Participate in a nationally recognized accreditation program and hold a valid accreditation;
- Have been in business in this state for at least 10 consecutive years;
- Demonstrate an active program in multidisciplinary education and research that relates to gerontology;
- Have a formalized contractual relationship with at least one accredited health profession education program located in this state;
- Have a formalized contractual relationship with an accredited hospital that is designated by law as a teaching hospital;
- Have senior staff members who hold formal faculty appointments at universities, which must include at least one accredited health profession education program; and
- Maintain insurance coverage or proof of financial responsibility of at least \$750,000.

Additionally, in order for a nursing home to qualify as a teaching nursing home the nursing home must:

- Be primarily operated and established to provide a comprehensive multidisciplinary program of geriatric education and research to Florida residents; and

¹ s. 400.141(2), F.S.

² For a list of the nursing homes that currently have a Gold Seal see: <<http://www.floridahealthfinder.gov/seniors/gold-seal-nursing-homes.shtml>> (Last visited on March 14, 2010.)

- Certify to the agency, each school year, the name, address, and educational history of each trainee approved and accepted for enrollment in the institution.

There are 674 nursing homes in Florida, and only one facility, the Miami Jewish Home and Hospital for the Aged, has been designated as a teaching nursing home under s. 430.80, F.S.³

State funding was previously provided for teaching nursing homes but was discontinued in the 2007-2008 fiscal year due to budgetary constraints.

III. Effect of Proposed Changes:

The bill revises the criteria for a teaching nursing home by:

- Reducing the minimum number of licensed nursing home beds required, from 400 to 170;
- Making the state's conferral of a Gold Seal Award for the nursing home an alternative criterion to participation in a nationally recognized accreditation program, and
- Eliminating the requirement to have a formalized contractual relationship with an accredited hospital that is designed by law as a teaching hospital.

According to the agency, there are currently 110 nursing homes with at least 170 beds. Of those, only three currently have the Gold Seal designation. It is not known if those three nursing homes have a contractual relationship with a federally funded accredited geriatric research center in Florida. This bill gives alternatives that could broaden the applicant pool for teaching nursing homes.

The bill amends s. 400.141, F.S., related to general and professional liability insurance coverage for nursing homes to conform a cross-reference in s. 430.80, F.S.

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 Article VII, Section 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 Article I, Section 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 Article III, Subsection 19(f) of the Florida Constitution.

³ See the AHCA 2010 Bill Analysis and Economic Impact Statement for SB 816, dated October 5, 2009, on file with the Senate Health Regulation Committee.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

This bill gives alternatives that could broaden the applicant pool for teaching nursing homes.

C. Government Sector Impact:

No fiscal impact is anticipated as a result of this legislation.

VI. Technical Deficiencies:

The Joint Commission on Accreditation of Healthcare Organizations has been renamed the Joint Commission. Lines 31 – 32 should be amended to refer to the commission by its new name.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Higher Education on April 7, 2010:

The committee substitute:

- Reduces to 170 the minimum number of licensed beds that a nursing home must have to become designated as a teaching nursing home; and
- Deletes the option of operating its own geriatric research center as an alternative to the requirement that a teaching nursing home must have a contractual relationship with a federally-funded, accredited center.

B. Amendments:

None.



676632

LEGISLATIVE ACTION

Senate

House

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**HEALTH AND HUMAN SERVICES
APPROPRIATIONS**

DATE: 4/16/10
TIME: 2:47 pm

LATE FILED

The Committee on Health and Human Services Appropriations
(Sobel) recommended the following:

Senate Amendment

Delete line 22

and insert:

accredited geriatric research center in this state or operates
in its own right as a geriatric research center.

**Bill Not
Yet
Received**

the approval required, the purpose for which the proceeds may be expended, and such other requirements as the Legislature may provide.

Under s. 212.055(4)(a), F.S., certain counties are authorized to levy the Indigent Care and Trauma Center Surtax at the rate that may not exceed 0.5 percent. A county with a total population of at least 800,000 residents is eligible to levy this tax; however, counties that are consolidated with one or more municipalities (Duval County), and counties authorized to levy the County Public Hospital Surtax (Miami-Dade County), are ineligible. The proceeds must be used to fund health care services, including, but not limited to, primary care, preventive care, and hospital care for indigent and medically poor persons, as well as Level I trauma center services. Persons defined as medically poor lack sufficient income, resources, and assets to provide for needed medical care without using resources required to meet the basic needs for shelter, food, clothing, and personal expenses. Medically poor individuals lack sufficient third-party insurance coverage and are not eligible for any other state or federal third-party insurance coverage. These persons are not eligible for any other state or federal program or have medical needs that are not covered by such a program. This tax may be imposed by either an extraordinary vote of the county's governing body or by voter approval in a county-wide referendum.

Section 212.055(4)(b), F.S., authorizes, notwithstanding any other provisions of s. 212.055(4), F.S., certain counties to levy the Indigent Care and Trauma Center Surtax at a rate that may not exceed 0.25 percent. A county with a total population of fewer than 800,000 residents is eligible to levy this tax subject to approval by voters in a referendum; however, counties consolidated with one or more municipalities are ineligible. The proceeds of the tax may be used to fund trauma services provided by a Florida-licensed trauma center. A discretionary surtax imposed under this paragraph expires four years after the effective date of the surtax, unless reenacted by ordinance subject to approval by a majority of the electors of the county voting in a subsequent referendum.

Governor's Veto

In 2009, the Legislature passed CS/SB 718, to remove the exclusion of a county that has a population of at least 800,000 residents and that is consolidated with one or more municipalities from levying a discretionary sales surtax under the "Indigent Care and Trauma Center Surtax," provision in law. This legislation would have allowed Duval County to levy a discretionary sales surtax. The Governor vetoed CS/SB 718 because the bill allowed a discretionary sales surtax to be levied without voter approval.¹ In the veto message, the Governor stated that he believes every discretionary sales surtax, or local option sales tax, must be approved by the voters.

III. Effect of Proposed Changes:

The bill amends the discretionary sales surtax provision for the "Indigent Care and Trauma Center Surtax," to delete the exclusion of a county that has a population of at least 800,000 residents and that is consolidated with one or more municipalities (Duval County) from levying this surtax under paragraph (a) of subsection (4) of Section 212.055, Florida Statutes.

¹ Letter to Secretary Kurt S. Browning, Secretary of State, from Governor Charlie Crist, regarding the veto of CS/SB 718, June 10, 2009, on file with the Senate Health Regulation Committee.

The bill provides that the governing board of a county that is consolidated with one or more municipalities may levy the surtax only if the ordinance is approved in a referendum.

The effective date of the bill is July 1, 2010.

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 Article VII, Section 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 Article I, Section 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 Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference determined that this bill will have no fiscal impact on state revenue and an indeterminate positive local revenue impact since an eligible jurisdiction must put the imposition of the levy to a referendum.

Non-consolidated counties with a total population of at least 800,000 residents (Broward, Hillsborough, Orange, Palm Beach, and Pinellas Counties) are eligible to levy the 0.5 percent surtax. Under current law, Duval County is ineligible to levy the surtax because it is a consolidated county government. Miami-Dade County may not levy the surtax because it already has authority to levy the County Public Hospital Surtax. An estimate of potential revenue for a county that is consolidated with one or more municipalities (Duval County) is outlined in the government sector impact section below.

B. Private Sector Impact:

If any county that has a population of at least 800,000 residents and that is consolidated with one or more municipalities (Duval County) imposes the Indigent Care and Trauma Center Surtax, consumers in that county will pay up to an additional 0.5 percent sales surtax on taxable purchases.

C. Government Sector Impact:

Imposition of this tax will provide Duval County with additional revenue to fund health care services for indigent and medically poor persons and Level I Trauma Center

services. Duval County has a projected population of 899,535 in 2010.² According revised estimates published by the Florida Legislative Committee on Intergovernmental Relations, a 1-cent local option sales tax in Duval County will generate approximately \$130 million for Fiscal Year 2008-2009. If Duval County had already imposed an Indigent Care and Trauma Center Surtax, 0.5 percent surtax could have generated approximately \$65 million in fiscal year 2008-2009.³

VI. Technical Deficiencies:

None.

VII. Related Issues:

In 2009, the Governor vetoed CS/SB 718 because it allowed a discretionary sales tax to be levied without voter approval. The bill language in SB 1036 (2010) is identical to CS/SB 718 (2009).

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Finance and Tax on April 13, 2010:

Provides that the governing board of a county that is consolidated with one or more municipalities may levy the surtax only if the ordinance is approved in a referendum.

B. Amendments:

None.

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

² The Office of Economic & Demographic Research, The Florida Legislature, County Profiles, Found at: <<http://edr.state.fl.us/county%20profiles.htm>> (Last visited on March 30, 2010).

³ 2009 Legislative Summary, Florida Legislative Committee on Intergovernmental Relations, Found at: <http://www.floridalcir.gov/UserContent/docs/File/reports/legisum09.pdf> (Last visited March 30, 2010).

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Health and Human Services Appropriations Committee

BILL: CS/CS/SB 1216

INTRODUCER: Community Affairs Committee; Children, Families, and Elder Affairs Committee;
 Senator Negron and others

SUBJECT: Children's Services

DATE: April 15, 2010 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Walsh	Walsh	CF	Fav/CS
2.	Wolfgang	Yeatman	CA	Fav/CS
3.	Fournier	McKee	FT	Favorable
4.	Hansen <i>mrh</i>	Hansen <i>mrh</i>	HA	Pre-meeting
5.				
6.				

Please see Section VIII. for Additional Information:

- A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes
 B. AMENDMENTS..... Technical amendments were recommended
 Amendments were recommended
 Significant amendments were recommended

I. Summary:

Committee Substitute for CS/SB 1216 requires that, in each county where a childrens's services district has been created, the county must submit to the voters the question of whether to retain or dissolve the district every six years in the general election. The bill also provides a schedule for the first implementation of this requirement.

No fiscal impact is anticipated as a result of this legislation, although county governments may experience insignificant costs associated with holding the required elections if the ballot is lengthed and it requires an additional page of card stock.

This bill substantially amends s. 125.901, Florida Statutes and creates an undesignated section of law.

II. Present Situation:

Special Districts in Florida

The Florida Constitution specifically provides for four types of local governments: counties, school districts, municipalities, and special districts. The 67 counties are subdivisions of the state, providing a variety of core services through constitutional officers (county commissioners, sheriff, tax collector, property appraiser, supervisor of elections, and clerk of the court) pursuant to authority granted in the constitution and consistent with general law. The 67 school districts are coterminous with the boundaries of the county and are responsible for operating, controlling, and supervising all free public schools within the district. The 408 municipalities exist pursuant to charters established by law and approved by the electorate in a referendum. They possess “home rule” authority to provide traditional municipal services to the extent consistent with their charters and not inconsistent with general law. The State Constitution limits the property taxing authority of these forms of local government to 10 mills on the assessed value of real estate and tangible personal property in each jurisdiction, respectively.

According to the Special District Information Office (SDIO) of the Department of Community Affairs, there are 1,622 special districts in Florida.¹ These districts provide a variety of governmental services pertaining to airports; the arts; beach restoration; children’s services; community development; conservation; emergency medical services; environmental protection; expressways and bridges; fire control and rescue; health care; housing; juvenile welfare; libraries; mosquito control; navigation; neighborhood improvement; ports; recreation and parks; soil and water conservation; transportation; water control and supply; and water and sewer services.

Chapter 189, F.S., the Uniform Special District Act of 1989, generally governs the creation and operation of special districts in the state. It also establishes procedures and limitations on the election of district officers, levy of ad valorem taxes and special assessments, bonding of district revenues, budgeting, and reporting requirements. Section 189.403(1), F.S., defines a special district as:

...a local unit of special purpose, as opposed to general-purpose, government within a limited boundary, created by general law, special act, local ordinance, or by rule of the Governor and Cabinet. The special purpose or purposes of special districts are implemented by specialized functions and related prescribed powers....

The term does not include a school district; a community college district; a municipal service taxing or benefit unit as specified in s. 125.01, F.S., or a board which provides electrical service and which is a political subdivision of a municipality or is part of a municipality.

¹ *Official List of Special Districts Online, County, State and Status (Dependent/Independent) Totals as of 2/28/2010*, available at http://www.floridaspecialdistricts.org/OfficialList/numbr_of.cfm (last visited February 28, 2010).

Dependent and Independent Special Districts

Special districts are further delineated as “independent” and “dependent” special districts.

Dependent special districts are defined in s. 189.404(2) as a special district that meets at least one of the following criteria:

- The membership of its governing body is identical to that of the governing body of a single county or a single municipality;
- All members of its governing body are appointed by the governing body of a single county or a single municipality;
- During their unexpired terms, members of the special district's governing body are subject to removal at will by the governing body of a single county or a single municipality; or
- The district has a budget that requires approval through an affirmative vote or can be vetoed by the governing body of a single county or a single municipality.

According to the SDIO, there are 615 dependent special districts in the state.² These districts are components of county or municipal governments, created by ordinance or special act of the Legislature. As such, these districts are accountable to the respective county or municipal government. If the district levies ad valorem taxes, such taxes are subject to the constitutional millage limitation for the respective jurisdiction.

An independent special district is defined in subsection (3) as “...a special district that is not a dependent special district as defined in subsection (2).” Furthermore, a district that includes more than one county is an independent special district unless the district lies wholly within the boundaries of a single municipality. According to the SDIO, there are 1,007 independent special districts in the state.³

Section 189.404(3), F.S., requires that general laws or special acts that create or authorize the creation of an independent special district must address the following in their charters:

- The purpose of the district;
- The powers, functions, and duties of the district regarding ad valorem taxation, bond issuance, other revenue-raising capabilities, budget preparation and approval, liens and foreclosure of liens, use of tax deeds and tax certificates as appropriate for non-ad valorem assessments, and contractual agreements;
- The methods for establishing the district;
- The method for amending the charter of the district;
- The membership and organization of the governing board of the district;
- The maximum compensation of a governing board member;
- The administrative duties of the governing board of the district;
- The applicable financial disclosure, noticing, and reporting requirements;

² *Id.*

³ *Id.*

- If a district has authority to issue bonds, the procedures and requirements for issuing bonds;
- The procedures for conducting any district elections or referenda required and the qualifications of an elector of the district;
- The methods for financing the district;
- If an independent special district has the authority to levy ad valorem taxes, the millage rate that is authorized;
- The method or methods for collecting non-ad valorem assessments, fees, or service charges;
- Planning requirements; and
- Geographic boundary limitations.

Subsection (4) of s. 189.404, F.S., provides that except as otherwise authorized by general law, only the Legislature may create independent special districts. One authorized exception to this provision includes Children's Services Districts created pursuant to s. 125.901, F.S.

Children's Services Districts (CSD)

Section 125.901, F.S., authorizes counties to create, by ordinance, an independent or dependent special district to provide funding for preventative, developmental, treatment, and rehabilitative services for children throughout the county. Upon approval by the electors in the county, the district may annually levy ad valorem taxes, not to exceed 0.5 mills. In addition, this section provides for an appointed governing board for the special district, specifying the powers and functions of the board; requires each board to identify and assess the needs of the children in the county served by the board and to provide an annual written report to the governing body of the county; requires the board to prepare a budget and prepare and file a financial report with the governing body of the county; and provides for the dissolution of the district.

According to SDIO, there are eight independent Children's Services Districts in Florida:⁴

- Children's Board of Hillsborough County
- Children's Services Council of Brevard County
- Children's Services Council of Broward County
- Children's Services Council of Martin County
- Children's Services Council of Okeechobee County
- Children's Services Council of Palm Beach County
- Children's Services Council of St. Lucie County
- The Children's Trust (Miami-Dade County)

The eight counties with independent children's services districts are home to nearly 2 million children, or 43 percent of the children living in Florida. The districts collectively generated \$450 million for programs and services for children in their communities in fiscal year 2008-2009.

⁴ *Official List of Special Districts Online, Customized Special District List by Children/Welfare Function as of 2/28/2010*, available at <http://www.floridaspecialdistricts.org/OfficialList/criteria.cfm> (last visited February 28, 2010). There are two other independent special districts relating to children's issues; however, each was created pursuant to s. 189.404, F.S.

During that same period, over \$90 million was generated through local, federal and private program funding.⁵

The largest portions of the district budgets are invested to support maternal and child health, school readiness/child care, and out of school and afterschool programs. The districts invest in prevention and early intervention services not funded by other entities with the aim of avoiding future higher-cost state-funded services.⁶

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 125.901(4), F.S., to require that every six years, in the general election, the county must submit to the electors of the children’s services district the question whether to retain or dissolve the district. The bill also provides a schedule for the first implementation of this requirement as follows:

- For those districts which held the most recent CSD referendum before 1991:2010
- For those districts which held the most recent CSD referendum between 1991 and 2000:2012
- For those districts which held the most recent CSD referendum between 2001 and 2010:2016
- For those districts which are authorized after 2010: Six years after the authorization

Section 2 of the bill creates an undesignated section of law to clarify that the provisions of the bill apply to any special district for children’s services that are governed by a council on children’s services.

Section 3 provides that the bill shall take effect upon becoming a law.

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 Article VII, Section 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 Article I, Section 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 Article III, Subsection 19(f) of the Florida Constitution.

⁵ Fact sheet from Florida Children’s Services Council, received from Kristin Vallese, Director of Outreach and Operations, Florida Children’s Services Council, by committee staff on March 2, 2010 (on file with the committee).

⁶ *Id.*

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The county may incur minimal costs associated with holding the required elections if the ballot is lengthed and it requires an additional page of card stock. Section 125.901, F.S., requires the county to assume debts, liabilities, contracts, and outstanding obligations of the district if the electorate votes to dissolve the special district.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs on April 7, 2010:

Requires that the election at which the district is up for retention is the general election.

CS by Children, Families, and Elder Affairs on March 18, 2010:

The Committee adopted a strike all amendment which amends s. 125.901(4), F.S., to require that every six years, in the August primary election, the county must submit to the electors of the children's services district the question whether to retain or dissolve the district. The bill also provides a schedule for the first implementation of this requirement.

B. Amendments:

None.

II. Present Situation:

HIV/AIDS

Acquired Immune Deficiency Syndrome (AIDS), a physical disorder that results in the loss of immunity in affected persons, is caused by the Human Immunodeficiency Virus (HIV) retrovirus. Since the known beginning of the HIV/AIDS epidemic in the early 1980s, it is estimated that over 1 million people in the U.S. have an AIDS diagnosis.¹ According to the Centers for Disease Control and Prevention (CDC), the annual number of AIDS cases and deaths declined substantially after 1994, but stabilized from 1999-2004.² The number of HIV/AIDS cases among racial/ethnic minority populations and through heterosexual contact has increased since 1994.³ Florida ranks third among states in the cumulative number of reported AIDS cases, with 118,560 cases reported through January 2010.⁴ A total of 5,608 HIV cases and 4,429 AIDS cases were reported in Florida in 2009.⁵ Florida has comprehensive HIV testing and partner notification laws. Additionally Florida law requires certain health care practitioners who provide prenatal services to offer HIV testing along with testing for other sexually-transmissible diseases.

Emergency Medical Technicians/Paramedics, Standards and Certification

An "Emergency Medical Technician" is defined under s. 401.23, F.S., as a person certified by the DOH to perform basic life support, specifically the treatment of medical emergencies through techniques described in the Emergency Medical Technician Basic Training Course Curriculum of the U.S. Department of Transportation (USDOT). A "Paramedic" is a person certified by the DOH to perform basic and advanced life support.

The DOH must establish, by rule, educational and training criteria and examinations for the certification and recertification of EMTs and paramedics.⁶ Applicants must complete an appropriate training course as follows:

- EMTs: an EMT training course equivalent to the most recent EMT basic training course of the USDOT (approved by the DOH.)
- Paramedics: a paramedic training program equivalent to the most recent paramedic course of the USDOT (approved by the DOH.)

The DOH must also establish by rule, a procedure for biennial renewal certification of EMTs and paramedics. Such rules for EMTs must require, at minimum, a 30 hour DOH-approved USDOT refresher training program. Rules for paramedics must require candidates for renewal to have taken at least 30 hours of continuing education units during the 2-year period.

911 Emergency Dispatchers

¹ *HIV/AIDS in the United States*, CDC (August 2009). Available at: <http://www.cdc.gov/hiv/resources/factsheets/PDF/us.pdf>. Last visited April 9, 2010.

² *CDC Revised Recommendations for HIV Testing of Adults, Adolescents, and Pregnant Women in Health Care Settings*, MMWR Morbidity and Mortality Weekly Report (September 22, 2006); 55(RR 14):1-17. Website: <http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5514a1.htm>. Last checked April 9, 2010.

³ *Id.*

⁴ *The Florida Division of Disease Control Surveillance Report (Hepatitis, HIV/AIDS, STD and TB)*, No. 303 (February 2010). Website: http://www.doh.state.fl.us/disease_ctr1/aids/trends/msr/2010/MSR0210.pdf. Last checked April 9, 2010.

⁵ *Id.*

⁶ s. 401.27, F.S.

A “911 Emergency Dispatcher” is a person employed by a state agency or local government as a public safety dispatcher or 911 operator whose duties include answering 911 calls and dispatching law enforcement officers, fire rescue services, emergency medical services, and other public safety services to the scene of an emergency. The DOH establishes, in rule, educational and training criteria for the certification and recertification of 911 emergency dispatchers. Requirements include completion of an appropriate 911 emergency dispatcher training program equivalent to the most recently approved emergency dispatcher course of the Florida Department of Education (DOE).⁷

Requirement for Instruction on HIV/AIDS

Subsections 381.0034(1) and (3), F.S., provide that the DOH must require applicants for initial licensure or certification as EMTs, paramedics, 911 emergency dispatchers, midwives, radiologic technologists, or clinical laboratory personnel to complete an educational course on HIV and AIDS. This course must be completed at the time of initial licensure or certification, or within six months of licensure or certification upon showing good cause.

The course must cover modes of transmission, infection control procedures, clinical management, and prevention of HIV/AIDS. The course must also include information on current Florida law and its impact on testing, confidentiality of test results, treatment of patients, and protocol on HIV counseling and testing, reporting, the offering of HIV testing to pregnant women, and partner notification. Failure to comply is grounds for disciplinary action.

Emergency Medical Services Training Programs

Public and private institutions in Florida seeking approval for a program on EMT and paramedic education must include, in their applications, verification that the curriculum:

- Meets course guides and instructor lesson plans from the EMT-Basic National Standard Curricula for EMT programs and EMT-Paramedic National Standard Curricula for paramedic programs;
- Includes two hours instruction on trauma scorecard methodologies for assessment of adult trauma and pediatric trauma patients as specified by DOH rule; and
- Includes four hours of instruction on HIV/AIDS training consistent with ch. 381, F.S.⁸

⁷ s. 401.465, F.S.

⁸ s. 401.2701, F.S.

Emergency Medical Technician National Standard Curriculum⁹

The National Highway Traffic Safety Administration (NHTSA) is responsible for the development of training courses for EMTs.¹⁰ The EMT-Basic National Standard Curriculum provides the minimum required information to be presented within a 110-hour training program, intended to prepare a medically competent EMT-Basic to operate in the field.¹¹

The 1998 EMT-Basic National Standard Curriculum Instructor's Course Guide¹² specifically provides:

...this curriculum does not provide students with extensive knowledge in hazardous materials, blood-borne pathogens, emergency vehicle operations or rescue practices in unusual environments. These areas are not core elements of education and practice....Identified areas of competency not specifically designed within the EMT-Basic: National Standard Curriculum should be taught in conjunction with this program as a local or state option.¹³

The EMT-Paramedic National Standard Curriculum provides the minimum required information to be presented within a course leading to paramedic certification. The curriculum guide notes that additional specific education is required of paramedics who operate in the field, i.e. ambulance driving, heavy and light rescue, basic extrication, and special needs, and that this information might differ by locality, warranting custom instruction.¹⁴

III. Effect of Proposed Changes:

Emergency medical telecommunications and transportation personnel, consisting of EMTs, paramedics, and emergency dispatchers, will no longer have to complete HIV/AIDS education as part of their training course for licensure and relicensure. It is unknown whether this will represent a cost saving for the students.

Public and private institutions offering licensure to emergency medical responders will not have to document specific training on HIV/AIDS education, although it may be included in course curriculum.

⁹ National Standard Curricula available at:

<http://www.nhtsa.dot.gov/portal/site/nhtsa/template.MAXIMIZE/menuitem.2a0771e91315babbbf30811060008a0c/?javax.portlet.tpst=4670b93a0b088a006bc1d6b760008a0c_ws_MX&javax.portlet.prp_4670b93a0b088a006bc1d6b760008a0c_viewID=detail_view&itemID=1822abcc80c81010VgnVCM1000002c567798RCRD&overrideViewName=Article>. Last checked April 11, 2010.

¹⁰ See NHTSA Emergency Medical Technician: Basic Refresher Curriculum, Instructor Course Guide.

Available at: <<http://www.nhtsa.dot.gov/people/injury/ems/pub/basicref.pdf>>. Last checked April 11, 2010.

¹¹ See NHTSA EMT-Basic: National Standard Curriculum, Instructor's Course Guide. Available at:

<<http://www.nhtsa.dot.gov/people/injury/ems/pub/emtbnc.pdf>>. Last checked April 11, 2010.

¹² Available at: <<http://www.nhtsa.dot.gov/people/injury/ems/pub/emtbnc.pdf>>. Last checked April 11, 2010.

¹³ *Id.* at 25.

¹⁴ *EMT: Paramedic National Standard Curriculum*, NHTSA (pg. 8). Available at:

<http://www.nhtsa.gov/people/injury/ems/EMT-P/disk_1%5B1%5D/Intro.pdf>. Last checked April 11, 2010.

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 Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of the bill have no impact on public records or open meetings issues under the requirements of Article I, Section 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 Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DOH indicated it will incur indeterminate costs. The bill will require the department to adopt rules to remove the HIV/AIDS requirement from Rules 64J-1.008 and 64J-1.009, F.A.C. The DOH also indicated that the application for approval of an EMT Program (DH Form 1698) will require revision.

There may also be a fiscal impact on the DOE to amend its Public Safety Telecommunication Curriculum Framework, which references the DOH HIV/AIDS education requirement as specified in s. 381.0034, F.S.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Higher Education Committee on April 13, 2010:

This committee substitute makes a technical correction to the title of the bill.

- B. **Amendments:**

None.

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Health and Human Services Appropriations Committee

BILL: CS/SB 1818

INTRODUCER: Community Affairs Committee and Health Regulation Committee

SUBJECT: Blood Establishments

DATE: April 15, 2010 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stovall	Wilson	HR	Fav/CS
2.	Howes	Yeatman	CA	Favorable
3.	Bradford <i>SEP</i>	Hansen <i>MPA</i>	HA	Pre-meeting
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

Senate Bill 1818:

- Defines a volunteer donor for purposes of blood donations;
- Prohibits local governments from restricting access to public facilities or infrastructure for volunteer blood drives based on the tax status of a blood establishment conducting the blood drive;
- Prohibits a blood establishment from considering the tax status of certain customers when determining the price at which to sell blood or a blood component that was obtained from volunteer donors;
- Requires a blood establishment that collects blood or blood components from volunteer donors, except hospitals, to disclose information on its Internet website concerning: a description of the activities of the blood establishment related to collecting and distributing volunteer blood donations; the number of units by component that are produced, obtained from other sources, and distributed; policies related to corporate conduct and executive compensation; and financial-related data. Failing to disclose this information as required in the bill subjects the blood establishment's clinical laboratory license to disciplinary action in the form of an administrative fine;

- Exempts a blood establishment that manufactures blood and blood components from the requirement to be permitted as a prescription drug manufacturer and register products;
- Authorizes certain blood establishments to obtain a restricted prescription drug distributor permit to engage in the wholesale distribution of certain prescription drugs to health care entities; and
- Authorizes the Department of Health (DOH) to adopt rules related to certain activities with prescription drugs by blood establishments.

There is no fiscal impact related to this bill.

This bill substantially amends the following sections of the Florida Statutes: 381.06014, 483.201, 499.003, 499.005, and 499.01.

II. Present Situation:

Regulatory Background

A blood establishment is defined in s. 381.06014, F.S., to mean any person, entity, or organization, operating within Florida, which examines an individual for the purpose of blood donation or which collects, processes, stores, tests, or distributes blood or blood components collected from the human body for the purpose of transfusion, for any other medical purpose, or for the production of any biological product.

The state of Florida does not issue a specific license as a blood establishment. Florida law¹ requires a blood establishment operating in Florida to operate in a manner consistent with the provisions of federal law in Title 21 Code of Federal Regulations (C.F.R.) parts 211 and 600-640, relating to the manufacture and regulation of blood and blood components. If the blood establishment does not operate accordingly and is operating in a manner that constitutes a danger to the health or well-being of blood donors or recipients, the Agency for Health Care Administration (Agency) or any state attorney may bring an action for an injunction to restrain such operations or enjoin the future operation of the establishment.

Federal law classifies blood establishments as follows:² community (non-hospital) blood bank (community blood center), hospital blood bank, plasmapheresis center, product testing laboratory, hospital transfusion service, component preparation facility, collection facility, distribution center, broker/warehouse, and other. Community blood centers are primarily engaged in collecting blood and blood components from voluntary donors to make a safe and adequate supply of these products available to hospitals and other health care providers in the community for transfusion. Blood establishments that focus on the collection of plasma that is not intended for transfusion, but is intended to be sold for the manufacture of blood derivatives³ routinely pay donors.

¹ s. 381.06014, F.S.

² A description of these classifications may be found at: <http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/EstablishmentRegistration/BloodEstablishmentRegistration/ucm055484.htm> (Last visited on March 5, 2010).

³ Blood derivatives are classified as prescription drugs.

Community blood centers in Florida are licensed as clinical laboratories by the Agency, unless otherwise exempt.⁴ As a part of the clinical laboratory license, the facility is inspected at least every two years. The Agency may accept surveys or inspections conducted by a private accrediting organization in lieu of conducting its own inspection. The clinical laboratory personnel are required to maintain professional licensure by the DOH. Community blood centers must also have appropriate licenses issued by the DOH and must comply with laws related to biomedical waste⁵ and radiation services.⁶

Blood and Blood Components

Blood may be transfused to patients as whole blood or as one of its primary components: red blood cells (RBCs), plasma, platelets, and cryoprecipitated antihemophilic factor (AHF).⁷

- RBCs are prepared from whole blood by removing the plasma, and are given to surgery and trauma patients, along with patients with blood disorders like anemia and sickle cell disease. RBCs have a shelf life of 42 days, or they may be treated and frozen for storage of up to 10 years.
- Leukoreduced RBCs are filtered to contain a lesser amount of white blood cells than would normally be present in whole blood or RBC units. Leukoreduction is recommended to improve the safety of blood transfusions by reducing the possibility of post-transfusion infection or reaction that may result from pathogens concentrated in white blood cells.
- Plasma is the liquid portion of the blood that carries clotting factors and nutrients. It may be obtained through apheresis⁸ or separated from whole blood, which is referred to as recovered plasma. It is given to trauma patients, organ transplant recipients, newborns and patients with clotting disorders. Fresh frozen plasma (FFP) is plasma frozen within hours after donation in order to preserve clotting factors and may be stored up to seven years. It is thawed before it is transfused.
- Cryoprecipitated AHF is the portion of plasma that is rich in certain clotting factors. It is removed from plasma by freezing and then slowly thawing the plasma. Cryoprecipitated AHF is used to prevent or control bleeding in individuals with hemophilia and von Willebrand disease.
- Platelets control blood clotting in the body, and are used to stop bleeding associated with cancer and surgery. Units of platelets are prepared by using a centrifuge to separate the platelet-rich plasma from the donated unit of whole blood. Platelets also may be obtained from a donor by the process of apheresis, which results in about six times as many platelets as a unit of platelets obtained from the whole blood. Platelets are stored at room temperature for up to five days.

⁴ Rule 59A-7.019, F.A.C., and part I of ch. 483, F.S., related to Health Testing Services.

⁵ Rule ch. 64E-16, F.A.C., Biomedical Waste, and s. 381.0098, F.S.

⁶ Rule ch. 64E-5, F.A.C., Control of Radiation Hazards. If a blood center irradiates blood products using radioactive materials, the location in which this occurs must be licensed. If a blood center irradiates blood products using a machine, then the community blood center must register the machine.

⁷ Blood component definitions from: AABB "Whole Blood and Blood Components" available at: http://www.aabb.org/Content/About_Blood/Facts_About_Blood_and_Blood_Banking/fabloodwhole.htm (Last visited on March 5, 2010).

⁸ *Ibid.* Apheresis is a process in which blood is drawn from the donor into an apheresis instrument that separates the blood into its components, retains the desired component, and returns the remainder of the blood to the donor.

Community Blood Centers

Currently, there are six not-for-profit corporations and one for-profit corporation that operate community blood centers in Florida. Several hospital-owned blood centers operate in this state as well, primarily collecting for their own use. At least one community blood center that does not have a fixed location in Florida, collects blood and blood components using a mobile blood-collection vehicle from volunteer donors and distributes blood and blood components to health care providers in Florida.

Recently, the for-profit community blood center received notification of a policy that impairs its ability to engage in blood collection activities and compete with the not-for-profit community blood centers. According to correspondence dated October 13, 2009, between officials within the Miami Parking Authority, that policy statement provides, “Meter rentals for blood mobile agencies will only be granted to non-profit companies conducting a blood drive ...”⁹

Pricing

The cost of blood and blood components is primarily based on the cost of labor and required testing to ensure the safety of the blood collected. In addition to screening, collecting, processing (separation), and testing, blood centers must ensure that they implement procedures for labeling, including expiration dating; tracking and tracing the donation; deferral; public health reporting and donor follow-up as applicable; blood component quarantining in temperature-controlled environments until testing indicates the unit may be released for use; continued storage in temperature-controlled environments for released units; transportation and handling; and environmentally appropriate disposal of supplies and unusable units.

Generally, the median fees charged by community blood centers in Florida are at or near the lowest median fees nationally.¹⁰ As a part of The Florida Senate Committee on Health Regulation Interim Report 2010-119, Review of the Regulation of Blood Banks, professional staff surveyed a small sample of for-profit and not-for-profit hospitals. Based on responses to the committee’s survey question requesting the average cost of a unit of specified blood components paid by the hospital over the last 12 months, it appeared that for-profit hospitals and not-for-profit hospitals were not paying an equivalent price for blood and blood components.¹¹

Licensure to handle prescription drugs

Human blood and blood products are characterized as both “biologics,”¹² for purposes of regulation under the federal Public Health Service Act, as amended, and also as “drugs,” subject to regulation under applicable provisions of the Federal Food, Drug, and Cosmetic Act (FD&C

⁹ A copy of the correspondence is on file with the Florida Senate Health Regulation Committee. A representative from the Miami Parking Authority indicated in a telephone conversation with professional committee staff that they had received complaints concerning staff from blood centers standing in the middle of the street harassing people to donate and blood drives that were not conducted in cooperation with a business in the vicinity.

¹⁰ See The Florida Senate Committee on Health Regulation Interim Report 2010-119, Review of the Regulation of Blood Banks, found at: http://www.flSenate.gov/data/Publications/2010/Senate/reports/interim_reports/pdf/2010-119hr.pdf (Last visited on March 5, 2010).

¹¹ Ibid.

¹² The term “biologics” or “biological product” means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or analogous product, applicable to the prevention, treatment, or cure of a disease or condition of human beings.

See http://www.law.cornell.edu/uscode/42/uscode_42_00000262----000-.html (Last visited on March 5, 2010).

Act).¹³ Some of the community blood centers are licensed by the DOH as a prescription drug wholesaler since they purchase and distribute prescription drugs, such as blood, blood components, blood derivatives, and other prescription drugs used in the collection, processing, and therapeutic activities conducted by the community blood centers.¹⁴

The Florida Drug and Cosmetic Act (the Act),¹⁵ as well as federal law,¹⁶ prohibits the sale, purchase or trade (wholesale distribution) of a prescription drug that was purchased by... a health care entity. A community blood center is a health care entity,¹⁷ however, some of the community blood centers in this state are licensed as prescription drug wholesalers in order to purchase and distribute certain prescription drugs that are needed by community blood centers and hospitals to deliver health care services that are traditionally performed by, or in cooperation with, community blood centers. For example, some community blood centers offer hospitals the full range of blood-related products, such as albumin (to replace fluid), Rh Immune Globulin (to prevent incompatible maternal-fetal blood admixture), and erythropoietin (to stimulate the production of RBCs), as well as trained personnel and expertise in handling those products. The Act and licensure of community blood centers under the Act are at odds with providing critical health care services by community blood centers.¹⁸

In November 2008, the FDA's rule to address this dilemma in federal law became effective.¹⁹ That rule provides for exceptions to authorize a registered blood establishment that qualifies as a health care entity to sell, purchase, or trade certain prescription drugs that would otherwise be prohibited. The DOH suggested that the authorizations in the federal rule should be included in the Act, but could be more narrowly crafted to limit the sale, purchase, or trade of these prescription drugs *to a health care entity* to avoid unintended consequences or the opportunity for community blood centers to compete in the marketplace as a prescription drug wholesaler.

The DOH recently noted that blood establishments have not been permitted under the Act as a prescription drug manufacturer and have not registered the prescription drugs that they manufacture (the blood and blood components) with the DOH, notwithstanding the fact that blood establishments are considered manufacturers of prescription drugs under federal law. The distribution of the prescription drugs that blood establishments manufacture have been exempted from the definition of wholesale distribution under s. 499.003(53)(d), F.S., for years. This

¹³ The FDA "CPG 230.120 – Human Blood and Blood Products as Drugs" "Inspections, Compliance, Enforcement, and Criminal Investigations" available at: <http://www.fda.gov/ICECI/ComplianceManuals/ComplianceProgramManual/ucm073863.htm> (Last visited on March 5, 2010). Blood and blood components intended for further manufacture into products that meet the device definition are biological devices.

¹⁴ Ch. 499, F.S., related to Drugs, Devices, and Cosmetics.

¹⁵ s. 499.005(21), F.S.

¹⁶ 21 U.S.C. 353(c)(3)(A)(ii)(I) (Section 503(c)(3)(A)(ii)(I) of the FD&C Act).

¹⁷ A health care entity is defined as a closed pharmacy or any person, organization, or business entity that provides diagnostic, medical, surgical, or dental treatment or care, or chronic or rehabilitative care, but does not include any wholesale distributor or retail pharmacy licensed under state law to deal in prescription drugs. See s. 499.003(23), F.S. The federal definition, found at 21 C.F.R. § 203.3(q), is similar.

¹⁸ The DOH indicated in an email to Florida Senate Health Regulation Committee staff, dated November 12, 2009, that at the present time, they are not aware of any serious abuses or action by the licensed community blood centers that may pose a public health threat.

¹⁹ The final rule in Vol. 73, No. 197 of the Federal Register on page 59496, published on October 9, 2008, is available at: <http://edocket.access.gpo.gov/2008/pdf/E8-24050.pdf> (Last visited on March 5, 2010).

situation applies to the community blood centers as well as other types of blood establishments, such as the establishments that collect plasma from paid donors.

Senate Interim Project Report 2010-119

During the 2009-2010 interim, professional staff of the Senate Committee on Health Regulation reviewed the regulation of blood banks (a.k.a. community blood centers). The recommendations concerning Legislative action in the resulting report are to: prohibit public agencies from restricting the access to or use of public facilities or infrastructure for the collection of blood and blood components based on the tax status of the community blood center; prohibit a community blood center from using the tax status of a hospital or other health care facility as the sole factor when determining the price at which it offers to sell or sells blood or blood components to the hospital or other health care facility; and address the statutory obstacle in Florida law concerning a community blood center distributing prescription drugs in a manner that is consistent with federally authorized distributions, with certain additional safeguards. This bill implements the committee's instruction to draft a proposed committee bill in accordance with the professional staff's recommendations as well as additional provisions to increase transparency in the activities of community blood centers and address other glitches in Florida law related to the permitting of blood establishments.

III. Effect of Proposed Changes:

Section 1 amends s. 381.06014, F.S., to define a volunteer donor as a person who does not receive remuneration, other than an incentive, for a blood donation intended for transfusion and the product container of the donation from the person qualifies for labeling with the statement "volunteer donor" under federal regulations.

The bill prohibits a local government from restricting access to or use of a public facility or public infrastructure for collecting blood or blood components from voluntary donors based on whether the blood establishment is a for-profit or not-for-profit corporation. Additionally, the bill prohibits a blood establishment from using as the sole factor whether a hospital or other health care entity is a for-profit or not-for-profit corporation when the blood establishment sets the service fee (price) at which it will sell blood and blood components collected from voluntary donors to the hospital or other health care entity.

The bill requires a blood establishment that collects blood or blood components from volunteer donors to disclose information on its Internet website concerning its activities. A hospital that collects blood or blood components from volunteer donors for its own use is not required to disclose this information. The disclosures may be cumulative for all blood establishments (branches) within the business entity. The information required to be disclosed includes:

- A description of the activities of the blood establishment related to collecting, processing, and distributing volunteer blood donations. This information is to be presented in a manner that is appropriate for the donating public;
- The number of units by component (whole blood, red blood cells, leukoreduced red blood cells, fresh frozen plasma or equivalent, recovered plasma, platelets, and cryoprecipitated AHF) that the blood establishment:
 - Produced (such as units that passed quality control and are available for use),
 - Obtained from other sources,

- Distributed to health care providers that are located outside the state. However, if the blood center collects donations in a county outside Florida and distributes to health care providers in that county, then the distributions made to that county must be excluded. This distribution information must be aggregated by health care providers that are located within the United States and its territories or outside the United States and its territories, and
- Distributed to entities that are health care providers. This information must be aggregated by purchasers that are located within the United States and its territories or outside the United States and its territories.

This information must be on the establishment's website by March 1 of each year reflecting data from the preceding calendar year;

- The blood establishment's policies pertaining to conflicts of interest, related-party transactions, and determining executive compensation. If any changes are made to any of these policies, the revised document must be on the blood establishment's website by the following March 1; and
- Either the most recent three years of a not-for-profit blood establishment's Form 990 that have been reported to the Internal Revenue Services, which must be posted within 30 calendar days after filing, or an audited or reviewed balance sheet, income statement, and statement of changes in cash flow, along with the expression of opinion on these statements from a certified public accountant, which must be posted within 120 days following the end of the fiscal year for a for-profit blood establishment and which must remain on the website for 36 months.

The clinical laboratory license of a blood establishment that fails to disclose this information is subject to an administrative fine as provided in section 2 of the bill.

Section 2 amends s. 483.201, F.S., to add the failure of a blood establishment that collects blood or blood components from volunteer donors to disclose the information required by s. 381.06014 regarding the blood establishment's activities to the grounds for which disciplinary action may be taken against a blood establishment's clinical laboratory license. If multiple blood establishments are operated by the blood establishment, the fines may be assessed against only one of the clinical laboratory licenses of the business entity. A \$1,000 fine may be assessed for each day for which the disclosure is not made, up to a maximum amount of \$10,000 for each annual reporting period.

Section 3 amends s. 499.003, F.S., to revise the definition of a health care entity to authorize a blood establishment that collects blood or blood components from volunteer donors to be a health care entity and engage in the wholesale distribution of prescription drugs in accordance with the requirements contained in section 5 of the proposed committee bill related to the restricted prescription drug distributor permit for a blood establishment.

Section 4 amends s. 499.005, F.S., to remove the prohibition against the wholesale distribution by a blood establishment that collects blood or blood components from volunteer donors if the blood establishment is operating in compliance with the requirements contained in section 5 of the proposed committee bill related to the restricted prescription drug distributor permit for a blood establishment.

Section 5 amends s. 499.01, F.S., to exempt a blood establishment that only manufactures blood and blood components from the requirements to be permitted as a prescription drug manufacturer and register the products it manufactures.

The bill also requires certain blood establishments to obtain a permit as a restricted prescription drug distributor in order to lawfully sell and distribute prescription drugs to another health care entity. The bill provides for certain restrictions on this authorization, including:

- The permit may be issued only to a blood establishment that is located in Florida;
- The permit may be issued to a blood establishment that collects blood and blood components from volunteer donors only or pursuant to an authorized practitioner's order for medical treatment or therapy;
- The distributions may be made only to a health care entity that is licensed as a closed pharmacy or provides health care services at the location where the health care entity receives the prescription drugs;
- The prescription drugs that may be distributed pursuant to the restricted prescription drug distributor permit are limited to:
 - A prescription drug that is indicated for a bleeding disorder, clotting disorder, or anemia;
 - A blood collection container that is approved under s. 505 of the federal FD&C Act related to new drugs;
 - A drug that is a blood derivative, or a recombinant or synthetic form of a blood derivative; or
 - A prescription drug that is essential to services performed or provided by blood establishments and is authorized for distribution by blood establishments under federal law if it is identified in rules adopted by the DOH; and
- The blood establishment may only provide health care services that:
 - Are related to its activities as an FDA-registered blood establishment;
 - Consist of collecting, processing, storing, or administering human hematopoietic stem cells or progenitor cells; or
 - Consist of performing diagnostic testing of specimens if these specimens are tested together with specimens undergoing routine donor testing.

In addition, the bill provides that a blood establishment that is permitted as a restricted prescription drug distributor must comply with all the storage, handling, and recordkeeping requirements with which a prescription drug wholesale distributor must comply. This includes providing pedigree papers²⁰ upon the wholesale distribution of these prescription drugs.

The DOH is authorized to adopt rules related to the distribution, transportation, storage, and recordkeeping of prescription drugs by blood establishments. These rules may include requirements for the use of prescription drugs in mobile blood-collection vehicles.

Section 6 provides an effective date of July 1, 2010.

²⁰ A pedigree paper contains information required by s. 499.01212, F.S., regarding the sale and distribution of a prescription drug.

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 Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of the bill have no impact on public records or open meetings issues under the requirements of Article I, Section 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 Article III, Subsection 19(f) of the Florida Constitution

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

Instead of paying \$900 annually for a prescription drug wholesale distributor permit and employing a certified designated representative, a community blood center that intends to engage in the wholesale distribution of certain prescription drugs in order to provide healthcare services typically provided by blood establishments will pay a \$600 fee biennially for a restricted prescription drug distributor permit.

B. Private Sector Impact:

Community blood centers that collect donations of blood and blood components from volunteer donors will need to ensure that pricing considerations for the sale of blood and blood components are not based solely on the whether the customer is a for-profit corporation or not-for-profit corporation.

A community blood center that collects donations of blood and blood components from volunteer donors, except hospitals, will be required to post certain information concerning its activities on its Internet website.

A community blood center that chooses to engage in the wholesale distribution of certain prescription drugs may lawfully do so if it is permitted as a restricted prescription drug distributor and complies with the requirements of that permit.

C. Government Sector Impact:

Governmental agencies may not limit the use of public infrastructure for the purpose of collecting voluntary donations of blood or blood components solely upon whether the corporation collecting the blood is for-profit or not-for-profit.

The DOH will need to adopt rules related to the permitting of a blood establishment as a restricted prescription drug distributor and other activities of blood establishments that are regulated under the Act.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Health Regulation on March 9, 2010:

The committee substitute:

- Requires a blood establishment that collects blood or blood components from volunteer donors, except a hospital, to disclose information on its website related to its activities and policies concerning corporate conduct;
- Exempts a blood establishment that manufactures only blood and blood components from the requirement to be permitted as a prescription drug manufacturer and register products; and
- Authorizes the DOH to adopt rules to identify additional prescription drugs that might be distributed by a blood establishment with a restricted prescription drug distributor permit and to facilitate the use of prescription drugs in blood mobiles.

- B. **Amendments:**

None.

the provisions of the Florida Cancer Council and are adopted into the Bankhead-Coley Program through a cross-reference.

No fiscal impact is anticipated as a result of this legislation.

The bill amends sections 381.855 and 381.922, Florida Statutes.

This bill repeals sections 381.0404, 381.85, 381.912, 381.92, and 381.921, Florida Statutes.

II. Present Situation:

Florida Biomedical and Social Research Act

Section 381.85, F.S., is the “Florida Biomedical and Social Research Act.”² The purpose of the Act is to provide a procedure by which proposed research on children or adults will be supported with funds appropriated to the DOH and the research can be efficiently and expeditiously assessed for compliance with the substantive and procedural requirements established by the Review Council for Biomedical and Social Research in rules adopted by the DOH. The Act establishes the Council and requires any research on human beings conducted under the authority of the DOH to be reviewed and approved by the Council.

According to the DOH, the Act does not comply with federal regulations governing the conduct of research involving human subjects and has been replaced by s. 381.86, F.S., which establishes the Institutional Review Board to satisfy federal requirements for human subject research.

Institutional Review Board

In 2004,³ the Legislature enacted s. 381.86, F.S., in order to satisfy federal requirements under 45 C.F.R. part 46 and 21 C.F.R. parts 50 and 56 that an institutional review board review all biomedical and behavioral research on human subjects which is funded or supported in any manner by the DOH. The State Surgeon General determines and appoints the members of the board. The DOH is authorized to adopt any rules necessary to comply with federal requirements. The rules must also prescribe procedures for submitting an application for the Institutional Review Board’s review.

Center for Health Technologies

The Center for Health Technologies was established in 1989⁴ and is required to be located at, and administered by, a statutory teaching hospital in Miami-Dade County. Its purpose is to encourage the development and growth of health sciences in the state; to assist coordination among educational institutions, health care providers, and persons engaged in research and development of health care products; to provide services to persons and incipient firms engaged in the incubation of health care products; to assist in technology transfer; and to establish academic laboratories, libraries, and other resource facilities. It was located at the Mount Sinai Medical Center, but has been inactive since 1997.

² s. 75 of ch. 90-306, L.O.F.

³ s. 10 of ch. 2004-350, L.O.F.

⁴ s. 10 of ch. 89-354, L.O.F., and s. 13 of ch. 89-527, L.O.F.

Cervical Cancer Elimination Task Force

The Cervical Cancer Elimination Task Force was created by the Legislature in 2004.⁵ The purpose of the task force was to recommend strategies and actions to reduce the costs and burdens of cervical cancer in Florida. The task force was required to submit a final report on June 30, 2008, and was to be dissolved by that date. According to the DOH, the task force was never implemented since the funding line item was vetoed and there was no authority to spend general revenue on staff support.

Florida Cancer Council

In 2004, the Legislature established the Florida Cancer Council for the purpose of making the state a center of excellence for cancer research.⁶ Sections 381.92 and 381.921, F.S., specify the membership of the Council and the Council's mission and duties. According to the DOH, the Council was never funded, met only once, and produced only one annual report. The Council's functions were largely taken over by the William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program starting in 2006.⁷

III. Effect of Proposed Changes:

This bill repeals several redundant and obsolete entities relating to biomedical and social research. In particular, the bill:

- Repeals the Center for Health Technologies, as the center has been inactive since 1997;
- Repeals the Review Council for Biomedical and Social Research and its review of research on human beings conducted under the authority of the Department of Health, as federal law requires an institutional review board, which was established in s. 381.86, F.S., to review such research;
- Repeals the Florida Cancer Council, as the council was never funded and its mission was assumed by the William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program (Bankhead-Coley Cancer Research Program);
- Repeals the Cervical Cancer Elimination Task Force, as the task force was statutorily dissolved on Jun3 30, 2008;
- Makes conforming changes to other statutory provisions relating to the repeals; and
- Transfers the goals of the Bankhead-Coley Cancer Research Program for providing grants for cancer research to the appropriate section of law.

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 Article VII, Section 18 of the Florida Constitution.

⁵ s. 15 of ch. 2004-2, L.O.F.

⁶ ss. 10 and 11 of ch. 2004-2, L.O.F.

⁷ See s. 381.922, F.S.

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 Article I, Section 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 Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Health Regulation on March 18, 2010:

Repeals s. 381.0404, F.S., related to the Center for Health Technologies and amends the current goals for awarding grants under the Bankhead-Coley Program into that program's authorizing statute.

B. Amendments:

None.



Committee:

HEALTH AND HUMAN SERVICES APPROPRIATIONS

Senator Peaden, Chair
Senator Rich, Vice Chair

Supplemental Meeting Packet Amendments

Monday, April 19, 2010
10:30 a.m. — 11:30 a.m.

Toni Jennings Committee Room, 110 Senate Office Building



906990

LEGISLATIVE ACTION

Senate

House

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LATE FILED

**HEALTH AND HUMAN SERVICES
APPROPRIATIONS**

DATE: 4/19/10
TIME: 8:34 am

The Committee on Health and Human Services Appropriations
(Peaden) recommended the following:

Senate Amendment

Delete lines 37 - 39
and insert:

percent. However, a county that is consolidated with one or more
municipalities must receive approval of the electors in a
referendum.