

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1269 Nursing Home Firesafety
SPONSOR(S): Rep. Gardiner & Other
TIED BILLS: **IDEN./SIM. BILLS:** SB 2466

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Elder Affairs & Long Term Care (Sub)		Meyer	Liem
2) Future of Florida's Families			
3) Insurance			
4)			
5)			

SUMMARY ANALYSIS

This bill requires that all nursing homes be protected by automatic sprinkler systems by 2009. The bill provides rule authority to the Division of the State Fire Marshall and provides for administrative sanctions against a nursing home that is in violation of the provisions.

The Agency for Health Care Administration estimates that the total cost for nursing homes to comply with these provisions will be \$3.2 million. The agency allocates the possible cost to Medicaid over the five years available for facilities to come into compliance and estimate a yearly impact to Medicaid of approximately \$239,855.

The bill takes effect July 1, 2004.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1269a.fff.doc
DATE: March 9, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

This bill creates a new standard for nursing homes that will be monitored and enforced.

B. EFFECT OF PROPOSED CHANGES:

The changes should result in enhanced safety for residents of nursing homes because over time every facility will have an automatic fire sprinkler system in place.

Background

Automatic fire sprinklers have been in use in the U.S. since 1874. Installation of fire sprinklers can provide discounts on insurance premiums. Concerns have been raised about water damage from sprinkler systems that sprinklers only protect property, not life, and that smoke detectors are sufficient fire safety. According to the American Fire Sprinkler Association, these concerns are mostly "myths". They report that:

- Water damage from a home sprinkler system will be much less severe than the damage caused by water from fire-fighting hose lines or smoke and fire damage if the fire goes unabated. Quick response sprinklers release 8-24 gallons of water per minute compared to 50-125 gallons per minute released by a fire hose.
- Smoke detectors save lives by providing a warning system but can do nothing to extinguish a growing fire or protect those physically unable to escape on their own, such as the elderly or small children. As the percent of homes in America that were "protected" with smoke detectors increased from zero to more than 70%, the number of fire deaths in homes did not significantly decrease.
- Sprinklers provide a high level of life safety. Statistics demonstrate that there has never been any multiple loss of life in a fully sprinklered building. Property losses are 85% less in residences with fire sprinklers compared to those without sprinklers. The combination of automatic sprinklers and early warning systems in all buildings and residences could reduce overall injuries, loss of life, and property damage by at least 50%.

With recent news reports of a tragic fire in a Tennessee nursing home, a Connecticut nursing home, and of a fire in an Orlando, Florida nursing homes have raised the issue of fire safety on the agenda of state fire experts. The State Fire Marshall has reported that this is a critical safety issue for the state. The Tennessee fire killed 8 people, and 16 patients were killed in the Connecticut fire. Officials in those two states reported that there were no sprinkler systems in the building, but that buildings were "up to code". In the Nashville incident, Assistant Fire Chief Lee Bergeron said, "Definitely, sprinklers would have subdued the fire quicker. It would have eliminated the smoke that we generated, and it would have made a difference in this fire."

According to information gathered by the Agency for Health Care Administration, 35 nursing homes with 4,300 beds are either partially sprinklered or are completely without sprinklers. The current statute (sec. 400.232 and sec. 633.022) requires nursing homes to comply with the National Fire Protection Act

(NFPA), 2000 ed. The NFPA exempts certain existing nursing homes under certain conditions from the requirement to install automatic sprinkler systems.

C. SECTION DIRECTORY:

Section 1. The bill amends section 633.022, F.S., Uniform Firesafety Standards. The bill provides that notwithstanding any provision to the contrary, each licensed nursing home will have an approved, supervised automatic sprinkler system in accordance with section 9 of the National Fire Protection Association, Inc. Publication 101, the 2003 edition.

The bill provides an implementation schedule that requires that "hazardous areas" be protected by the sprinkler system by December 31, 2007; and, the entire nursing home must be protected no later than December 31, 2009. The division is authorized to grant up to two one-year extensions of the time limits for nursing homes that have not been able to comply for reasons "beyond its control".

The division is authorized to adopt rules to enforce this subsection and provides that nursing homes that are not in compliance are subject to administrative action by the division.

Section 2. This act takes effect July 1, 2004.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

\$239,855 per year for five years.

If the costs associated with retrofitting currently exempted nursing homes are passed on in the Medicaid cost-report, the state share (General Revenue) could be approximately \$239,855 per year for the five years of implementation.

- That calculation is based on a cost of \$3 per square foot
- for 35 facilities at 3,0569 square feet each
- for a total of approximately 1,069 million square feet
- \$3.2 million in total project costs

The Medicaid analysis then allocated the costs over the five and one-half years allowing for implementation for a total cost per year of \$583,590 per year. That would be General Revenue of \$239,855 per year, and the Federal share would be \$343,735 per year.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None are projected.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Nursing homes that are not compliant will have to install sprinkler systems. Some of those costs may be reimbursed by Medicaid. The estimate is approximately \$3.2 million dollars.

D. FISCAL COMMENTS:

The United States House of Representatives and the Senate are considering legislation that would provide tax relief to entities that install sprinkler systems. The bills will amend the 1986 Internal Revenue Code to classify automatic fire sprinkler systems as "five year property" for the purpose of depreciation. Some experts say that this much shorter period of depreciation is expected to encourage the retrofit of existing depreciable property by offering a quicker "pay back." For instance, if a sprinkler system costs \$100,000, and if this legislation is passed, sprinkler improvements can be depreciated at \$20,000 a year for five years, as opposed to the current tax treatment that would require the depreciation be calculated over thirty years.¹

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

B. RULE-MAKING AUTHORITY:

The division of the State Fire Marshall is granted rule making authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

The bill was reported favorably by the Subcommittee on Elder Affairs & Long Term Care with one amendment. That amendment creates a loan guarantee program, "The State Fire Marshall Nursing Home Fire Protection Loan Guarantee Program" to assist nursing homes that need to be retrofitted to comply with the provisions of this bill. The loan guarantee is funded from the Insurance Regulatory Trust Fund. By providing a state guarantee, nursing homes should be able to secure loans from private lenders at favorable interest rates.

¹ Reported in SprinklerNet: a publication of the American Fire Sprinkler Association. Senate Bill 1566