

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Health Care Committee

BILL: SB 668

SPONSOR: Senator Jones

SUBJECT: Defibrillators in State Parks

DATE: April 15, 2005

REVISED: 04/20/05

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

## Please see last section for Summary of Amendments

Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

### I. Summary:

The bill encourages the Division of Recreation and Parks (division), under the Department of Environmental Protection (DEP) to purchase and use automated external defibrillators (AEDs) in state parks. The division is authorized to adopt rules to implement the bill. The bill provides that state park employees must be required to be properly trained in the use of the AED, must maintain the device to ensure it is always in proper working condition pursuant to s. 401.2915, F.S. The location of the AED must be registered with the local emergency medical services medical director. Employees and volunteers who use an AED shall be covered by the immunity granted under the Good Samaritan Act and the Cardiac Arrest Survival Act.

The bill provides for a one-time appropriation during the 2005-06 fiscal year in the sum of \$214,000 from the General Revenue Fund to the division for the purpose of implementing this act and for purchasing AEDs.

This bill creates section 258.0165, F.S.

## II. Present Situation:

### State Parks

According to DEP, the state of Florida had 1.9 million overnight campers visit state parks last year. Of the 54 camping parks, 13 had attendance greater than 200,000 last year. The total visitors to all state parks for the 2003-04 fiscal year was over 19 million. The number of visitors in Florida state parks over the age of 45 for the same time period was over 4 million or 21 percent of all the visitors.

### Automated External Defibrillators

In 2003, the death rate from cardiovascular disease among Floridians age 45-85 was 577 per 1,000 deaths. Sudden cardiac arrest occurs on average at about 60 years of age. Each year, more than 350,000 Americans die from sudden cardiac arrest. Minutes and even seconds can mean the difference between life and death. In Florida each month, approximately 2 to 3 people are saved with an AED by a trained lay person. An AED is an electronic device that can shock a person's heart back into rhythm when he or she is having a cardiac arrest. An AED determines the patient's heart rhythm to determine if a shock should be provided, and if needed, adjusts the level of energy to deliver an appropriate shock to the patient's heart when a rescuer pushes a button. The shock stops the abnormal rhythm and allows a normal pumping action to resume. AEDs are easy to use, compact, battery operated, lightweight and durable.

Public access to AEDs has increased survival rates by up to 50 percent for those suffering a sudden cardiac arrest. All states have enacted defibrillator laws or adopted regulations regarding their use.<sup>1</sup>

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

“Cardiac arrest is the sudden, abrupt loss of heart function. The victim may or may not have diagnosed heart disease...Sudden death (also called sudden cardiac death) occurs within minutes after symptoms appear.”<sup>2</sup>

Time is of the essence in responding to cardiac arrest because brain death begins in just 4 to 6 minutes. Cardiac arrest can be reversed if it is treated within a few minutes with an electric shock to the heart to restore a normal heartbeat—a procedure known as *defibrillation*. According to AHA, a victim's chances of survival are reduced by 7 to 10 percent with every minute that passes without defibrillation, and few attempts at resuscitation succeed after 10 minutes have elapsed. According to AHA, with early defibrillation of a person in cardiac arrest, the person's possibility of survival jumps to more than 50 percent.

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

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<sup>1</sup> Peter Scalco, Department of Environmental Protection, <<http://www.dep.state.fl>>, with additional information provided by the American Red Cross <<http://www.redcross.org>>.

<sup>2</sup> See definition of “cardiac arrest” at <<http://www.americanheart.org/presenter.jhtml?identifier=4481>>.

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

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

### **Immunity Under the Cardiac Arrest Survival Act**

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

- Notify the local emergency medical services medical director of the most recent placement of the AED within a reasonable period of time after the AED is placed;
- Properly maintain and test the AED; or
- Provide appropriate training in the use of the AED to an employee or agent of the acquirer when the employee or agent was the person who used the AED on the victim, except such requirement of training does not apply if: the employee or agent was not an employee or agent who would have been reasonably expected to use the AED; or the period of time elapsing between the engagement of the person as an employee or agent and the occurrence of the harm, or between the acquisition of the AED and the occurrence of the harm in any case in which the AED was acquired after engagement of the employee or agent, was not a reasonably sufficient period in which to provide the training.

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

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

entity, and the harm was caused by an employee or agent of the entity who used the AED while acting within the scope of the employment or agency of the employee or agent; or

- The person is the manufacturer of the AED.

### **Immunity under the Good Samaritan Act**

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

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

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

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

- Encourage each state park to have a functioning AED on the premises at all times;
- Require state parks that provide AEDs to ensure that employees and volunteers are properly trained in accordance with s. 401.2915, F.S.;

- Require the location of an AED to be registered with a local emergency medical services medical director; and
- Provide that any use of an AED by employees and volunteers shall be covered under the Good Samaritan Act and the Cardiac Arrest Survival Act.

The bill authorizes the division to adopt rules to implement the bill. The bill appropriates a sum of \$214,000 for the fiscal year 2005-2006 only from the General Revenue Fund to the division for the purpose of implementing the act and purchasing AEDs.

The effective date of the bill is upon the bill 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.

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

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

The bill will benefit the successful bidder on a contract to provide \$214,000 worth of AEDs to state parks.

##### **C. Government Sector Impact:**

The bill appropriates a sum of \$214,000 for the fiscal year 2005-2006 only from the General Revenue Fund to the division for the purpose of implementing the act and purchasing AEDs.

Based on conversations with the Division of Emergency Medical Operations within the Department of Health concerning bids for AEDs, it is estimated that each AED will cost between \$800 and \$1,700. These costs are for the AED only and do not include extra parts or maintenance. The appropriations should allow for the division to purchase

between 125 and 260 AEDs. The division will incur a recurring expense to replace AEDs when they no longer work, wear out, or become outdated because of technological advances in AED development. Such expense is unknown due to the variables associated with each AED repair.

Division officials that fail to comply with the requirements of ss. 768.13 and 768.1325, F.S., may still be liable for the acts of employees and volunteers who use AEDs.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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

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## VIII. Summary of Amendments:

### **Barcode 105226 by Environmental Preservation:**

The amendment appropriates \$214,000 from the General Revenue Fund to the Division of Recreation and Parks of the Department of Environmental Protection for implementing the bill during the 2005-2006 fiscal year and requires the division to arrange for the purchase of as many automated external defibrillators as may be purchased with this appropriation.

### **Barcode 743952 by Health Care**

The amendment to amendment (Barcode 105226) reduces the appropriation in the bill from \$214,000 to \$92,000.

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