

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 Policy Committee

BILL: CS/SB 418

INTRODUCER: Health Policy Committee and Senator Wilson

SUBJECT: School Health Services

DATE: February 22, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Munroe	Wilson	HP	Fav/CS
2.	_____	_____	EP	_____
3.	_____	_____	JU	_____
4.	_____	_____	HA	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill creates the “One School, One Nurse Act.”

The bill establishes procedures and criteria for the awarding of state matching funds for the delivery of school nurse services. The bill provides legislative intent with regard to funding a nurse in every public school in the state and provides \$75,000 in General Revenue funds for a school health summit.

The bill creates s. 381.0058, F.S., and three undesignated sections of law.

II. Present Situation:

School Health Services Act

Section 381.0056, F.S., establishes the School Health Services Act. The Department of Health (DOH) has responsibility, in cooperation with the Department of Education (DOE), to supervise the administration of the school health services program and perform periodic program reviews. Basic school health services supplement parental responsibilities for child health and include low cost population-based preventive health services. The state plan for school health services must be developed by the DOH in cooperation with the DOE to include, at a minimum, a plan for the delivery of school services; accountability and outcome indicators; strategies for assessing and blending financial resources; and the establishment of a data system.¹

¹ See Rule 64F-6.002, Florida Administrative Code.

Section 381.0057, F.S., specifies requirements for funding of school health services in addition to funding under the School Health Services Act. The section outlines state funding requirements for the provision of comprehensive school health services by county health departments and local school districts. The funds are to be targeted to school districts or schools that have a high incidence of medically underserved high-risk children, low birthweight babies, infant mortality, or teenage pregnancy.

Full-service School Programs

Section 402.3026, F.S., outlines statutory requirements for full-service school programs, which must be jointly established by the DOE and the DOH to serve students from schools that have a student population that has a high risk of needing medical and social services. Under a “full-service” school program, the DOH staff provides specialized services to high-risk students at school as an extension of the educational environment. County health department staff provides services to these high-risk students through facilities that are established on the grounds of the school. The services may include nutrition services, basic medical services, aid to dependent children, teaching parenting skills, counseling for abused children, counseling for children at high risk for delinquent behavior and their parents, and adult education. The full-service schools must integrate the DOH services that are critical to the continuity-of-care process.

Availability of School Health Nurses

To assess the adequacy of school health services, a common standard that is used is the nurse-to-student staffing ratio. Since 2000, the federal government and the National Association of School Nurses have recommended a school nurse-to-student ratio of 1 to 750. The registered nurse-to-student ratio for Florida is 1 to 2,674 and there was one registered nurse per 3.5 schools for the 2004-05 school year.² The national average school nurse-to-student ratio is 1 to 1,187.³ According to the DOH, as of June 30, 2006, there were 3,716 public schools and 993 registered nurses providing school health services in those schools.

School-based Health Centers

According to officials at the DOH, school-based health centers have been established in select schools to provide primary medical care. Such care is distinct from the school health services required by s. 381.0056, F.S. School-based health centers have been created with funding from federal or community grants. Department officials note that as of September 2004, there were about 116 centers located at schools in seven counties in Florida. Seven of the school-based health centers are sponsored by county health departments, and the remainder of the centers are sponsored by hospitals, community health centers, school districts, or universities.

Sovereign Immunity

Article X, s. 13, of the State Constitution, authorized the Florida Legislature in 1868 to waive sovereign immunity by stating that, “Provision may be made by general law for bringing suit

² Source: Florida Department of Health, Family and Community Health School Services.

³ Source: Florida Department of Health, Family and Community Health School Services.

against the state as to all liabilities now existing or hereafter originating.” The doctrine of sovereign immunity prohibits lawsuits in state court against a state government, and its agencies and subdivisions without the government’s consent. Section 768.28, F.S., provides that sovereign immunity for tort liability is waived for the state, and its agencies and subdivisions, but imposes a \$100,000 limit on the government’s liability to a single person and, for claims arising out of a single incident, the limit is \$200,000. Section 768.28, F.S., outlines requirements for claimants alleging an injury by the state or its agencies. Section 11.066, F.S., requires a claimant to petition the Legislature, in accordance with its rules, to seek an appropriation to enforce a judgment against the state or state agency. The exclusive remedy to enforce damage awards that exceed the recovery cap is by an act of the Legislature through the claims bill process. A claim bill is a bill that compensates an individual or entity for injuries or losses occasioned by the negligence or error of a public officer or agency.

Section 768.28(9), F.S., defines “officer, employee, or agent” to include, but not be limited to, any health care provider when providing services pursuant to s. 766.1115, F.S. (the Access to Health Care Act), any member of the Florida Health Services Corps, as defined in s. 381.0302, F.S., who provides uncompensated care to medically indigent persons referred by the DOH, and any public defender or her or his employee or agent, including among others, an assistant public defender and an investigator.

The second form of sovereign immunity potentially available to private entities under contract with the government is set forth in s. 768.28(9), F.S. It states that agents of the state or its subdivisions are not personally liable in tort; instead, the government entity is held liable for its agent’s torts. The factors required to establish an agency relationship are: (1) acknowledgment by the principal that the agent will act for him; (2) the agent’s acceptance of the undertaking; and (3) control by the principal over the actions of the agent.⁴ The existence of an agency relationship is generally a question of fact to be resolved by the fact-finder based on the facts and circumstances of a particular case. In the event, however, that the evidence of agency is susceptible of only one interpretation the court may decide the issue as a matter of law.⁵

Under the school health services program, health care entities receive a limitation on their civil liability under the doctrine of sovereign immunity. Under s. 381.0056(10), F.S., any health care entity that provides school health services under contract with the DOH under a school health services plan developed under the act, and as part of a school nurse service public-private partnership, is deemed to be a corporation acting primarily as an instrumentality of Florida solely for the purpose of limiting liability under s. 768.28(5), F.S. The limitations on tort actions in s. 768.28(5), F.S., must apply to any action against the entity with respect to the provision of school health services, if the entity is acting within the scope of and pursuant to guidelines established in the contract or by rule of the DOH. The contract must require the entity, or the partnership on behalf of the entity, to obtain general liability insurance coverage, with any additional endorsement necessary to insure the entity for liability assumed by its contract with the DOH.

⁴ *Goldschmidt v. Holman*, 571 So.2d 422 (Fla. 1990).

⁵ *Campbell v. Osmond*, 917 F. Supp. 1574, 1583 (M.D. Fla. 1996). See also *Stoll v. Noel*, 694 So.2d 701 (Fla. 1997).

III. Effect of Proposed Changes:

Section 1. Provides that the act may be cited as the “One School, One Nurse Act.”

Section 2. Creates s. 381.0058, F.S., to specify legislative intent that matching funds, in addition to existing state funding for school health services, be provided in those communities where interest in school health services has been evidenced by participation by public or private entities in the funding or delivery of school nurse services. The purpose of the funding is to encourage the development of programs that offer the greatest potential for promoting student health, increasing the availability of and access to nurses in school settings, and fostering community participation for school nurse services. Matching funds must be available for implementing school health services in the basic school health program under s. 381.0056, F.S., the comprehensive school health services program under s. 381.0057, F.S., and the full-service school program under s. 402.3026, F.S.

The bill specifies that it is the intent of the Legislature that tobacco-settlement revenue be used to pay for health and human services for children.

The section outlines requirements for the Secretary of Health, in cooperation with the Commissioner of Education, to publicize the availability of state matching funds for school nurse services and to form a committee to determine the eligibility of public and private entities to receive matching funds. Communities seeking state matching funds for school nurse services must submit a proposal to the committee. The bill specifies the content of the proposals and the criteria for awarding the matching funds. A county health department or school district that receives matching funds may not supplant more than 50 percent of the current local contributions to school health services funding as documented in the local school health services plan.

Section 3. Creates an undesignated section of law, to provide legislative intent that sufficient resources and funding be made available to provide a nurse in every public school in the state under this act. The section cites recognition of existing funding for basic and comprehensive school health services, full-service school programs, and Medicaid funding, all of which may be used in partial funding. The bill recognizes that local funding can be used for matching funds for local delivery of school health services through public-private partnerships as created in the act. Legislative intent is further expressed that the remainder of resources needed for placing a nurse in every school must be derived from the state’s tobacco-settlement revenue.

Section 4. Provides an appropriation of \$75,000 from the General Revenue Fund to the DOH for the purpose of convening a school health summit as recommended by Senate Interim Project 98-30, September 1998.

Section 5. Provides an effective date of July 1, 2007.

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:

If a nurse is placed in each school as a result of the bill, students in such schools will benefit by having greater access to nursing services.

C. Government Sector Impact:

The bill provides a General Revenue appropriation of \$75,000 for a school health summit.

According to the DOH, as of June 30, 2006 there were 3,716 public schools and 993 registered nurses providing school health services in those schools. The bill's stated intent of funding a school health nurse in every public school has a cost that will be borne by both private and public entities. The bill creates a need for approximately 2,723 additional registered nurses. Under the DOH's estimate of \$40,860 per school health nurse FTE, the amount needed to fully implement the nursing requirements of the bill is approximately \$111,261,068.

The department also estimates the need for two additional professional staff (a governmental operations consultant II and a registered nurse consultant) at the state school health services program office to support the additional county level program staffing of nurses in each school. This cost amounts to recurring costs of \$81,682 for salaries and fringe benefits of the staff for FY 2007-08 and \$112,178 for FY 2008-09. The department also estimates the need for each nurse and central program staff to have a computer and the costs for the computers are estimated at \$3,542,500. The estimated travel expenses for FY 2007-08 are \$42,175,692 and for FY 2008-09 are \$30,731,284.

The department estimates total expenditures of \$130,130,668 for FY 2007-08 and \$148,360,913 for FY 2008-09.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

VIII. Summary of Amendments:

None.

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