Health Care General Committee

Wednesday, March 28, 2006
10:30 AM – 12:00 PM
306 HOB

COMMITTEE MEETING PACKET

Revised

Allan G. Bense
Speaker

Gayle B. Harrell
Chair

AGENDA
Health Care General Committee
March 28, 2006
10:30 a.m. – 12:00 p.m.
306 HOB

I. Call to order/Roll Call

II. Opening Remarks

III. Consideration of the following bills:

- **HB 865 CS** - - Enterprise Zone Incentives to Serve the Uninsured by Quinones
- **HB 1449** - - Brain Tumor Research by Gannon
- **HB 1451** - - Public Records by Gannon
- **HB 1499** - - Automated External Defibrillators by Brutus

IV. Closing Remarks and Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 865 CS Enterprise Zone Incentives to Serve the Uninsured
SPONSOR(S): Quinones
TIED BILLS: **IDEN./SIM. BILLS:** SB 2588

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Economic Development, Trade & Banking Committee	13 Y, 0 N, w/CS	Olmedillo	Carlson
2) Health Care General Committee		Brown-Barrios	Brown-Barrios
3) Finance & Tax Committee			
4) Commerce Council			
5)			

SUMMARY ANALYSIS

The bill creates an exemption through a refund of previously paid sales taxes for the purchase and use of medical equipment and supplies by a health care facility providing primary care services to the uninsured and located in an enterprise zone. The bill provides the following:

- A definition of "medical equipment", "medical supplies" and "health care facility";
- A limit on the property subject to refund of the first $500,000 of medical equipment and supplies purchased and used by a facility any taxable year;
- Procedures for application for and approval of eligibility for tax exemption;
- Rulemaking authority for DOR;
- Assessment of penalties and interest in the event DOR determines medical equipment or supplies for which a refund is sought has been used outside an enterprise zone; and
- Revision of Enterprise Zone Development Authority boards to allow appointment of a person who is employed in the health care field.

The Revenue Estimating Conference has not estimated the fiscal impact of the bill.

The bill has an effective date of July 1, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Lower Taxes – The bill creates a tax exemption for health care facilities and community health care centers providing services to the uninsured and located in an enterprise zone.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

Florida Enterprise Zone Program

The Florida Enterprise Zone Act (act), codified in ss. 290.001-290.016, F.S., was created:

> to provide the necessary means to assist local communities, their residents, and the private sector in creating the proper economic and social environment to induce the investment of private resources in productive business enterprises located in severely distressed areas and to provide jobs for residents of such areas.[1]

The Florida Enterprise Zone Act of 1994 was scheduled to be repealed on December 31, 2005, but was re-enacted as the Florida Enterprise Zone Act (act) by ch. 2005-287, L.O.F., for an additional ten years, and is now scheduled to be repealed December 31, 2015.

Under the act, areas of the state meeting specified criteria, including suffering from pervasive poverty, unemployment, and general distress, have been designated as enterprise zones. The act established a process for the nomination and designation of a maximum of 20 enterprise zones in 1994.[2] Subsequently, the Legislature has designated additional zones. Currently, there are 55 enterprise zones in the state. When the Enterprise Zone Act was re-enacted by ch. 2005-287, L.O.F., the 53 existing enterprise zones were allowed to apply for re-designation; 51 of 53 have been re-designated. Four of the 55 enterprise zones were created by ch. 2005-244, L.O.F.: City of Lakeland, Indian River County, Sumter County, and Orange County. There are also three Federal Enterprise Communities and two Federal Empowerment Zones. Certain federal, state, and local incentives are authorized to induce private businesses to invest in these enterprise zones.

State Incentives

The program's incentives are as follows:

- Jobs credit against sales or corporate income taxes: In order to be eligible, businesses must increase the number of full time jobs. The credit amount varies based on job location and wage of employee. [3]
- Property tax credit: New, expanded, or rebuilt businesses located within an enterprise zone are allowed a credit on their Florida corporate income tax based on the amount of property taxes paid.[4]
- Sales tax refund for building materials: A refund is available for sales taxes paid on the purchase of building materials used in the rehabilitation of real property in an enterprise zone. The amount of the refund is the lesser of 97 percent of the sales taxes paid or $5,000, or, if 20 percent or more of the business's employees reside in an enterprise zone, the lesser of 97 percent of the sales taxes paid or $10,000.[5]

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[1] Section 290.003, F.S.
[2] Sections 290.0055 and 290.0065, F.S.
[3] Sections 212.096 and 220.181, F.S.
[4] Section 220.182, F.S.
[5] Section 212.08(5)(g), F.S.

- Sales tax refund for business property used in an enterprise zone: A refund is available for sales taxes paid on the purchase of business property with a purchase price of $5,000 or more purchased by and for use in a business located in an enterprise zone. The amount of the refund is the lesser of 97 percent of the sales taxes paid or $5,000, or, if 20 percent or more of the business's employees reside in an enterprise zone, the lesser of 97 percent of the sales taxes paid or $10,000.[6]

Local Incentives
The following are examples of local incentives:

- Sales tax exemption for electrical energy used in an enterprise zone: A sales tax exemption (state and local taxes) is available to qualified businesses located in an enterprise zone on the purchase of electrical energy. This exemption is only available if the municipality in which the business is located has passed an ordinance to exempt the municipal utility taxes on such business.[7]
- Economic development ad valorem tax exemption: Up to 100 percent of the assessed value of improvements to real or tangible property of a new or expanded business located in an enterprise zone may be exempted from property taxes if the voters of a municipality authorize the governing body of the municipality to grant such exemptions.[8]
- Occupational license tax exemption: By ordinance, the governing body of a municipality may exempt 50 percent of the occupational license tax for businesses located in an enterprise zone.[9]
- Local impact fee abatement or reduction, or low-interest or interest-free loans, or grants to businesses.[10]

State Agencies
The Governor's Office of Tourism, Trade, and Economic Development (OTTED) administers the Florida Enterprise Zone Act; the Department of Revenue (DOR) reviews and approves or denies a business's application for enterprise zone tax credits; and Enterprise Florida, Inc., is responsible for marketing the act.

Medical Equipment Exemption
Current law exempts medical products and supplies or medicine dispensed according to a prescription and common household remedies from the sales and use tax.[11] In addition, the law grants an exemption for prosthetic and orthopedic appliances.[12]

The Uninsured

By definition enterprise zones are located in communities that are suffering from pervasive poverty, unemployment, and general distress. Typically, the residents in these communities are disproportionately poor, and represent disproportionately racial and ethnic minorities. Medicaid and Medicare[13] assist many people in these communities who can't afford medical care by paying their medical bills. Medicaid targets individuals with low-income, but not all that are poor are eligible. Medicaid is a means-tested and categorical program. To qualify, applicants' income and resources must be within certain limits and must meet certain categorical groups. These categorical groups include children in poverty, certain low-income women, the disabled, and certain low-income elderly. The specific income and resource limitations that apply to each categorical eligibility group are set through a combination of Federal parameters and a state's definitions within the Federal parameters.

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[6] Section 212.08(5)(h), F.S.
[7] Sections 212.08(15) and 166.231(8), F.S.
[8] Section 196.1995, F.S.
[9] Section 205.054, F.S.
[10] Section 290.0057(1)(e), F.S.
[11] Section 212.08(2)(a), F.S.
[12] Id.
[13] Medicare is the Federal health insurance program for people age 65 or older, people under age 65 with certain disabilities, and people of all ages with End-Stage Renal Disease (permanent kidney failure requiring dialysis or a kidney transplant.

Enterprise zones contain subsets of low-income people that are not eligible for Medicaid or Medicare because of income or categories of individuals not covered by these programs.

Most Floridians (82%) are insured by some form of either private or public health coverage. However, an estimated 18% of Florida's population is uninsured at anytime during a year. The following table delineates population by health insurance status in FY 2002 - 2003.

The Health Insurance Status of Floridians 2002-2003[14]

Source of Insurance	FL Population	%	US Population	%
Employer	7,956,640	48	156,270,570	54
Individual	990,350	6	13,593,990	5
Medicaid	2,007,000	12	38,352,430	13
Medicare	2,726,250	16	34,190,710	12
Uninsured	2,957,290	18	44,960,710	16
Total	16,637,520	100	287,368,410	100

A recent survey study of the uninsured[15], funded by the Agency for Health Care Administration, estimated the number of uninsured Floridians at 19.2%. The study also described the characteristics of Floridians who lack health insurance coverage. This analysis revealed:

- Children age 18 or younger are 18.5% of the uninsured.
- Working-aged adults are 81.5% of the uninsured.
- Individuals within the age of 18 to 24 years are 15.8% of the uninsured.
- Individuals within the age of 25 to 34 years are 23.2% of the uninsured.
- Individuals within the age of 35 to 54 years are 34.1% of the uninsured.
- Individuals within the age of 55 to 64 years are 8.3% of the uninsured.

The survey also found that among uninsured working-aged adults, about a third do not have a job, either because they are actively seeking employment (20.9%) or because they are out of the work place (16.1%) due to schooling, disability, or family obligations. Another 13.9% are exclusively self-employed. About 37.3% of uninsured adults work full-time for an employer, while 11.9% are employed part-time.

The uninsured typically gain access to health care services through what are known as "safety-net" hospitals or facilities that typically include public hospitals, private non-profit hospitals, and community health centers, and many physicians all of whom help shoulder the burden of uncompensated care. While a broad range of providers serve uninsured patients, the largest share of uncompensated care, in terms of dollars, is provided by hospitals.[16] Those who are uninsured for an entire year pay for over a third of their health care costs out-of-pocket and many have real problems paying their medical bills. The uninsured are over twice as likely as the insured to report having problems paying their medical bills and are almost three times as likely to be contacted by a collection agency about medical bills.[17]

Although approximately 19.3 % of Florida's population is uninsured at anytime during a year, the percent of uninsured is much greater in many areas designated as enterprise zones. The table below is a sample of counties that have a greater percent of its population uninsured than the state average. Some of these counties have an enterprise zone designation or have an enterprise zone within the county boundaries.

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[14] Source: Kaiser Foundation - Population Distribution by Insurance Status, state data 2002-03, U.S. 2003

[15] A Profile of Uninsured Floridians, Findings from the 2004 Florida Health Insurance Study
R. Paul Duncan et al, February 2005, The Department of Health Services Research, Management and Policy, University of Florida.

[16] Medicaid's Disproportionate Share Hospital Program: Complex Structure, Critical Payments; Robert E. Mechanic, National Health, Policy Forum, September 2004.

[17] *Ten Myths about the Uninsured* Kaiser Commission on Medicaid and the Uninsured Publication Number: 7307
Publish Date: 2005-04-28

Uninsured - Counties Above State Average (19.2%)					
County	Percent Uninsured	Enterprise Zone	County	Percent Uninsured	Enterprise Zone
Gadsden	36.2	✓	Manatee	21.0	✓
Hendry	31.6	✓	Jackson	20.9	✓
Hardee	30.8	✓	Sumter	20.9	
DeSoto	29.6	✓	Franklin	20.7	✓
Miami-Dade	28.6	✓	Jefferson	20.7	
Collier	28.0	✓	Suwannee	20.5	
Okeechobee	26.3	✓	Baker	20.4	
Glades	26.2	✓	Columbia	20.4	
St. Lucie	25.4	✓	Holmes	20.4	✓
Indian River	23.5	✓	Lake	20.4	
Lee	23.2	✓	Putnam	20.4	✓
Lafayette	22.8		Marion	20.3	
Hamilton	22.4	✓	Gulf	20.2	✓
Liberty	21.9	✓	Taylor	20.2	✓
Charlotte	21.8		Dixie	20.1	✓
Gilchrist	21.6		Flagler	20.1	
Union	21.5		Washington	20.1	✓
Madison	21.3	✓	Monroe	20.0	
Calhoun	21.2	✓	Wakulla	19.9	✓
Bradford	21.1		Walton	19.9	✓
Citrus	21.0		Levy	19.8	

There are supplemental funding mechanisms put in place by the Federal government to assist the state's effort to ensure access to care by Medicaid recipients and to assist in providing care to the uninsured. These funding mechanisms include the Medicaid Disproportionate Share Hospital program (DSH) and the Low Income Pool (LIP). The bulk of this funding goes to certain safety net hospitals. DSH compensates certain hospitals for some of the cost of serving a disproportionate share of low-income individuals who either are part of the Medicaid program or have no insurance at all. Beginning July 1, 2006 as part of Medicaid Reform, LIP funds ($1 billion) will be distributed by the state to provide direct payment and distributions to certain safety-net providers in the state for the purpose of providing coverage to the uninsured.[18] Many providers that serve the uninsured do not receive DSH or LIP funds.

Effect of Proposed Changes:

Medical Sales and Use Tax Exemption

The bill creates a tax exemption on the purchase and use of medical equipment and supplies by a health care facility providing primary care services to the uninsured and located in an enterprise zone.

The bill provides the following definitions:

[18] LIP replaces the current Upper Payment Limit (UPL) program. The UPL supplemental payment mechanism allows Florida within parameters established by the Federal Government to make higher special Medicaid payments to compensate certain hospitals by making up the difference between what Medicaid pays and what Medicare pays for certain hospital services.

- Medical equipment: durable medical equipment that can be used repeatedly that serves a medical purpose in the diagnosis, treatment or care of an individual.
- Medical supplies: items that are consumable, expendable, disposable or non-durable that serve a medical purpose in the diagnosis, treatment or care of an individual.
- Health care facility: a facility licensed pursuant to chapter 395 or a county health department, a children's medical services program, a federally qualified health center, a federally funded migrant health center, rural clinic, or other publicly funded community health program, and other programs designated by the Department of Health as a community health center that provide primary care services to the uninsured.

The bill limits the exemption to the first $500,000 of equipment and supplies purchased and used by a facility in any taxable year. In addition, the bill provides that the exemption inures to the benefit of the health care facility as a refund of previously paid taxes.

The bill requires that a facility must first seek approval from the governing body or enterprise zone development agency having jurisdiction of the enterprise zone where the facility is located. Specifically, the bill provides that the applicant must complete an application, under oath, that includes information such as the name and address of the facility, the identifying number assigned to the enterprise zone in which the facility is located, a definition of the facility's taxable year, a specific description of the medical equipment and supplies for which a refund is sought, specific proof of the purchase of the medical equipment and supplies, and a statement that the facility serves uninsured patients.

The bill allots the governing body or enterprise zone development agency 10 working days from receipt of the application to review it and determine the applicant's eligibility. If the applicant meets all relevant criteria, governing body or enterprise zone development authority must certify, in writing, the applicant as eligible to receive the refund.

Thereafter, the applicant shall forward to DOR a certified application requesting a refund no later than 6 months after the tax is due on the medical equipment and supplies for which the applicant is seeking a refund. A refund shall not be granted if the equipment and supplies are eligible for exemptions under ss. 212.08(2) and (5)(h), F.S.; or unless a refund exceeds $100 in sales tax paid on purchases made within a 60 day period. The bill provides DOR rulemaking authority to implement the provisions of this bill.

DOR shall deduct an amount equal to 10 percent of each refund granted from the amount transferred into the Local Government Half-Cent Sales Tax Clearing Trust Fund pursuant to s. 212.20 for the county area in which the medical equipment and supplies are located and shall transfer that amount to the General Revenue Fund.

The bill provides that the provisions of s. 212.095, F.S. (limiting actions) do not apply to refund applications pursuant to this section.

In the event DOR determines that any of the medical equipment and supplies for which a refund is sought is used outside an enterprise zone within 3 years from the date of purchase, the applicant shall immediately return the refund amount, interest on that amount from the date of purchase, and penalties.

The bill provides that the provisions of the bill expire concurrently with the expiration of the Florida Enterprise Zone Act, December 31, 2015.

The bill allows one of the commissioners of an enterprise zone development agency to be employed in the health care field, and provides for appointment only when a position becomes vacant after July 1, 2007.

C. SECTION DIRECTORY:

Section 1: Amends s. 212.08, F.S., to create a sales and use tax exemption, provide a cap, provide procedures, provide rulemaking authority, provide penalties for a violation, and provide an expiration date.

Section 2: Amends s. 290.0056, F.S., to provide an additional requirement for the enterprise zone development agency board of commissioners and to provide a cross reference.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The Revenue Estimating Conference has not estimated the fiscal impact of the bill.

2. Expenditures:

   The Revenue Estimating Conference has not estimated the fiscal impact of the bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The Revenue Estimating Conference has not estimated the fiscal impact of the bill.

2. Expenditures:

   The Revenue Estimating Conference has not estimated the fiscal impact of the bill.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will provide an exemption to health care facilities serving the uninsured and located in an enterprise zone.

D. FISCAL COMMENTS:

The Revenue Estimating Conference has not estimated the fiscal impact of the bill.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not reduce the percentage of state tax shared with municipalities or counties.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill provides DOR with rulemaking authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 16, 2006, the Economic Development, Trade and Banking Committee adopted a strike-all amendment to the bill. The amendment provides the following:

1. An exemption through refund of previously paid sales and use taxes for medical equipment and supplies purchased by a health care facility that is located in an enterprise zone and that serves uninsured patients.

2. The exemption applies to the first $500,000 in equipment and supplies purchased by the health care facility in a given taxable year.

3. A requirement that the health care facility must apply to the local government or Enterprise Zone Development Agency that oversees the enterprise zone for certification for eligibility to receive the exemption.

4. Local government must certify eligibility if the health care facility meets the application requirements and the Department of Revenue must provide the refund of previously paid sales or use taxes.

5. Rulemaking authority to DOR to implement the program.

6. A requirement that the medical equipment and supplies be used in the enterprise zone and provides a penalty if the equipment or supplies are used outside the zone within three years of their purchase.

7. Definitions of "medical equipment", "medical supplies" and "health care facility".

8. One member of an Enterprise Zone Development Agency may be employed in the health care field and that such a person may be appointed after a vacancy on such an agency after July 1, 2007.

CHAMBER ACTION

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1 The Economic Development, Trade & Banking Committee recommends
2 the following:
3
4 **Council/Committee Substitute**
5 Remove the entire bill and insert:
6 A bill to be entitled
7 An act relating to enterprise zone incentives to serve the
8 uninsured; amending s. 212.08, F.S.; providing for an
9 exemption by refund from the tax on sales, use, and other
10 transactions of certain medical equipment or supplies
11 purchased and used by certain health care facilities
12 located in enterprise zones; providing a limitation;
13 providing application requirements; providing procedures
14 and limitations for the refund; providing duties of a
15 local governing body or enterprise zone development
16 agency; providing duties of the Department of Revenue;
17 requiring the department to adopt rules; providing for
18 return of the refund under certain circumstances;
19 requiring the department to deduct a portion of refunds
20 from amounts to be transferred into a certain trust fund
21 and deposit such amount into the General Revenue Fund;
22 providing definitions; providing for expiration under
23 certain circumstances; amending s. 290.0056, F.S.;

24 expanding the list of entities from which appointments may
25 be made to an enterprise zone development agency's board
26 of commissioners; providing an additional requirement for
27 the membership of an enterprise zone development agency
28 board of commissioners under certain circumstances;
29 providing a limitation; providing an effective date.
30
31 Be It Enacted by the Legislature of the State of Florida:
32
33 Section 1. Paragraph (r) is added to subsection (5) of
34 section 212.08, Florida Statutes, to read:
35 212.08 Sales, rental, use, consumption, distribution, and
36 storage tax; specified exemptions.--The sale at retail, the
37 rental, the use, the consumption, the distribution, and the
38 storage to be used or consumed in this state of the following
39 are hereby specifically exempt from the tax imposed by this
40 chapter.
41 (5) EXEMPTIONS; ACCOUNT OF USE.--
42 (r) Medical equipment and supplies used in an enterprise
43 zone.--
44 1. Medical equipment and supplies purchased for use by
45 health care facilities that serve uninsured patients located in
46 an enterprise zone which are subsequently used in an enterprise
47 zone are exempt. This exemption inures to the health care
48 facility only through a refund of previously paid taxes. A
49 refund shall be authorized upon an affirmative showing by the
50 taxpayer to the satisfaction of the department that the
51 requirements of this paragraph have been met.

52 2. To receive a refund, the health care facility must file
53 under oath with the governing body or enterprise zone
54 development agency having jurisdiction over the enterprise zone
55 in which the health care facility is located, as applicable, an
56 application which includes:
57 a. The name and address of the health care facility
58 claiming the refund.
59 b. The identifying number assigned pursuant to s. 290.0065
60 to the enterprise zone in which the health care facility is
61 located.
62 c. A specific description of the medical equipment for
63 which a refund is sought, including the serial numbers or other
64 permanent identification numbers of the equipment.
65 d. A specific description of the medical supplies for
66 which a refund is sought, including the serial or lot numbers or
67 other numbers identifying the purchased supplies.
68 e. The sales invoice or other proof of purchase of the
69 medical equipment or supplies, showing the amount of sales tax
70 paid, the date of purchase, and the name and address of the
71 sales tax dealer from whom the medical equipment or supplies
72 were purchased.
73 f. A statement that the health care facility serves
74 uninsured patients.
75 g. A statement defining the taxpayer's taxable year.
76 3. Within 10 working days after receipt of an application,
77 the governing body or enterprise zone development agency shall
78 review the application to determine if the application contains
79 all the information required pursuant to subparagraph 2. and

80 meets the criteria set out in this paragraph. The governing body
81 or agency shall certify all applications that contain the
82 information required pursuant to subparagraph 2. and that meet
83 the criteria set out in this paragraph as eligible to receive a
84 refund. The certification shall be in writing and a copy of the
85 certification shall be transmitted to the executive director of
86 the Department of Revenue. The health care facility shall be
87 responsible for forwarding a certified application to the
88 department within the time specified in subparagraph 4.
89 4. An application for a refund pursuant to this paragraph
90 must be submitted to the department within 6 months after the
91 close of the taxable year during which the eligible medical
92 equipment or supplies were purchased.
93 5. The provisions of s. 212.095 do not apply to any refund
94 application made pursuant to this paragraph. This exemption
95 shall apply to the first $500,000 of taxable medical equipment
96 or supplies purchased by a health care facility and used in the
97 facility in any taxable year. A refund may not be granted under
98 this paragraph unless the amount to be refunded exceeds $100 in
99 sales tax paid on purchases made within a 60-day time period. A
100 refund may not be granted under this paragraph for medical
101 equipment or supplies eligible for exemption pursuant to
102 subsection (2) or eligible for a refund pursuant to paragraph
103 (h).
104 6. The department shall adopt rules governing the manner
105 and form of refund applications and may establish guidelines as
106 to the requisites for an affirmative showing of qualification
107 for exemption under this paragraph.

108 7. If the department determines that the medical equipment
109 or supplies are used outside an enterprise zone within 3 years
110 from the date of purchase, the amount of taxes refunded to the
111 health care facility purchasing such medical equipment or
112 supplies shall immediately be due and payable to the department
113 by the health care facility, together with the appropriate
114 interest and penalty, computed from the date of purchase, in the
115 manner provided by this chapter. Notwithstanding this
116 subparagraph, a health care facility may dispose of disposable
117 supplies according to law.
118 8. The department shall deduct an amount equal to 10
119 percent of each refund granted under this paragraph from the
120 amount to be transferred into the Local Government Half-cent
121 Sales Tax Clearing Trust Fund pursuant to s. 212.20 for the
122 county area in which the medical equipment or supplies are
123 located and shall deposit that amount into the General Revenue
124 Fund.
125 9. For purposes of this exemption, the term:
126 a. "Medical equipment" means durable medical equipment
127 that can be used repeatedly and that serves a medical purpose in
128 the diagnosis, treatment, or care of an individual.
129 b. "Medical supplies" means items that are consumable,
130 expendable, disposable or nondurable, and that serve a medical
131 purpose in the diagnosis, treatment, or care of an individual.
132 c. "Health care facility" means a facility licensed
133 pursuant to chapter 395 or a county health department, a
134 children's medical services program, a federally qualified
135 health center, a federally funded migrant health center, a rural

136 clinic, or any other publicly funded community health program
137 and any other programs designated by the Department of Health as
138 a community health center that provide primary care services to
139 the uninsured.
140 10. This paragraph expires on the date specified in s.
141 290.016 for the expiration of the Florida Enterprise Zone Act.
142 Section 2. Subsection (2) and paragraph (a) of subsection
143 (9) of section 290.0056, Florida Statutes, are amended to read:
144 290.0056 Enterprise zone development agency.--
145 (2) When the governing body creates an enterprise zone
146 development agency, that body shall appoint a board of
147 commissioners of the agency, which shall consist of not fewer
148 than 8 or more than 13 commissioners. The governing body may
149 appoint at least one representative from each of the following:
150 the local chamber of commerce; local financial or insurance
151 entities; local businesses and, where possible, businesses
152 operating within the nominated area; the residents residing
153 within the nominated area; nonprofit community-based
154 organizations operating within the nominated area; health care
155 facilities operating within the nominated area; the regional
156 workforce board; the local code enforcement agency; and the
157 local law enforcement agency. One of the commissioners on the
158 board may be employed in the health care field, provided such
159 requirement applies only when a position on the board becomes
160 vacant after July 1, 2007, and appointment of a new commissioner
161 is required to fill the vacancy or an additional member is to be
162 appointed after July 1, 2007. The terms of office of the
163 commissioners shall be for 4 years, except that, in making the

164 initial appointments, the governing body shall appoint two
165 members for terms of 3 years, two members for terms of 2 years,
166 and one member for a term of 1 year; the remaining initial
167 members shall serve for terms of 4 years. A vacancy occurring
168 during a term shall be filled for the unexpired term. The
169 importance of including individuals from the nominated area
170 shall be considered in making appointments. Further, the
171 importance of minority representation on the agency shall be
172 considered in making appointments so that the agency generally
173 reflects the gender and ethnic composition of the community as a
174 whole.
175 (9) The following powers and responsibilities shall be
176 performed by the governing body creating the enterprise zone
177 development agency acting as the managing agent of the
178 enterprise zone development agency, or, contingent upon approval
179 by such governing body, such powers and responsibilities shall
180 be performed by the enterprise zone development agency:
181 (a) To review, process, and certify applications for state
182 enterprise zone tax incentives pursuant to ss. 212.08(5)(g),
183 (h), <u>(r),</u> and (15); 212.096; 220.181; and 220.182.
184 Section 3. This act shall take effect January 1, 2007.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 01(for drafter's use only)

Bill No. **HB 865 CS**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill: Health Care General Committee
2 Representative(s) Quinones offered the following:
3
4 **Amendment**
5 Remove line(s) 73 and 74 and insert:
6 f. An affidavit declaring that at least ten percent of the
7 cost incurred for care provided by the health care facility in
8 the previous taxable year was uncompensated care and that the
9 health care facility did not receive supplemental Medicaid
10 disproportionate share hospital or low income pool funding
11 pursuant to chapter 409.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1449 Brain Tumor Research
SPONSOR(S): Gannon and others
TIED BILLS: HB 1451 **IDEN./SIM. BILLS:** SB 2566

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Health Care General Committee		Ciccone	Brown-Barrios
2) Health Care Appropriations Committee			
3) Health & Families Council			
4)			
5)			

SUMMARY ANALYSIS

HB 1449 establishes the Florida Center for Brain Tumor Research within the Scripps Research Institute. The bill provides legislative intent regarding the need for coordination among researchers and health care providers in the effort to find cures for cancerous and noncancerous brain tumors.

This bill directs the Department of Health to develop and maintain an automated centralized database of individuals with brain tumors and directs the Florida Center for Brain Tumor Research to provide a central repository for brain tumor biopsies. In addition, the Florida Center for Brain Tumor Research is directed to improve and monitor brain tumor biomedical research programs with the state, facilitate funding opportunities, and foster improved transfer of brain tumor research findings into clinical trials and public use.

The bill creates a scientific advisory council that includes biomedical researchers, physicians, and representatives from public and private universities and hospitals. Members of the council serve without compensation.

The bill has a $4 million fiscal impact. Funds would be appropriated from the General Revenue Fund to the Florida Center for Brain Tumor Research for the 2006-2007 fiscal year for the purpose of funding brain tumor research and the procurement of brain tumor biopsies.

The effective date of the bill is July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill expands the duties and responsibilities of the Department of Health to develop and maintain an automated, electronic, and centralized brain tumor registry.

Empower families – Individuals in need of information and treatment of cancerous and noncancerous brain tumors would benefit from the advances in information and technology as biomedical research extends to expand clinical research trials and eventual cures.

B. EFFECT OF PROPOSED CHANGES:

Current sections of law delineate a growing emphasis to encourage biomedical and clinical trial research in a variety of tumor-related areas of study in Florida. Several universities, including the University of Florida, University of Miami and the University of South Florida have well established programs dealing with cancerous and noncancerous brain tumor research. In addition, the H. Lee Moffitt Cancer Center and Research Institute and the Florida Hospital in Orlando are listed in the national registry of brain tumor centers. Public and privately funded research consortiums such as the Scripps Research Institute provide continuum of innovative research opportunities to foster communication and coordination among researchers and institutions, increase federal and other grant opportunities and expand the related economic industry growth.

Background

Tumors – General Definition

A tumor or neoplasm refers to a "new growth" of cells that already exist in a certain part of the body. Many different tumors can occur in the nervous system. They often cause headaches, seizures or neurological deficits. Tumors can be either benign or malignant. Malignant tumors are referred to as cancers. Tumor treatments can consist of surgical resection or biopsy, radiation approaches or drug treatment approaches (chemotherapy). Other tumors can be treated with modification of the body's own immune system (immunotherapy).[1]

There are over 120 types of brain tumors including acoustic neuroma, astrocytoma, and brain metastasis. Because of the many and varied types of brain tumors, treatment is complicated. Brain tumors in children are different from those in adults and are often treated differently. Although as many as 60% of children will survive, they are often left with long term side effects. In addition, brain tumors are the third leading cause of death in young adults ages 20-39.[2]

The American Cancer Society estimates that 18,820 Americans have been diagnosed with malignant brain or spinal cord tumors in 2005 and that 12,820 of these patients will die from these malignant tumors. 930 of these deaths that occurred in 2005 were in Florida.

The National Brain Tumor Foundation reports the following statistics:

- Each year approximately 190,000 people in the United States will be diagnosed with a primary or metastatic brain tumor.
- Brain tumors are the leading cause of Solid Tumor death in children under age 20 now surpassing acute lymphoblastic leukemia (ALL), and are the third leading cause of cancer death in young adults ages 20-39.

[1] *See Department of Neurological Surgery, University of Pittsburg, www.neurosurgery.pitt.edu/conditions*
[2] National Brain Tumor Foundation website www.braintumor.org/patient/treatment

- Brain tumor patients, including those with certain "benign" brain tumors, have poorer survival rates than breast cancer patients.
- Metastatic brain tumors (cancer that spreads from other parts of the body to the brain) occur at some point in 10 to 15% of persons with cancer and are the most common type of brain tumor. The incidence of brain tumors has been increasing as cancer patients live longer.
- In the United States, the overall incidence of all primary brain tumors is more than 14 per 100,000 people.
- Because brain tumors are located at the control center for thought, emotion and movement, their effects on an individual's physical and cognitive abilities can be devastating.
- Brain tumors are treated by surgery, radiation therapy and chemotherapy, used either individually or in combination.
- Only 31 percent of males and 30 percent of females survive five years following the diagnosis of a primary or malignant brain tumor.
- Brain tumors in children are different from those in adults and are often treated differently. Although as many as 69 percent of children with brain tumors will survive, they are often left with long-term side effects.
- Enhancing the quality of life of people with brain tumors requires access to quality specialty care, clinical trials, follow-up care and rehabilitative services. Improving the outlook for adults and children with brain tumors requires research into the causes of and better treatments of brain tumors.
- Complete and accurate data on all primary brain tumors are needed to provide the foundation for research leading to improved diagnosis and treatment and to investigations of its causes.

BRAIN TUMOR SYMPTONS AND TREATMENT

Symptoms of a brain tumor can include headaches (of sufficient discomfort to distrupt sleep), seizures in a person who does not have a history of seizures, cognitive or personality changes, eye weakness, nausea or vomiting, speech disturbances, or memory loss. While these are the most common symptoms of a brain tumor, they can also indicate other medical problems.

At present, surgery is the primary treatment for brain tumors that lie within those membranes covering the brain or in parts of the brain that can be removed without damaging critical neurogical functions. Because a tumor can regrow if any tumor cells are left behind, surgeons strive to remove the entire tumor whenever possible. Radiation therapy and chemotherapy, in general are used as secondary or adjuvant treatment for tumors that cannot be removed by surgery alone.

C. SECTION DIRECTORY:

Section 1. Creates s. 381.853, F.S., and provides legislative intent regarding cancerous and noncancerous biomedical research, directs the Department of Health to develop and maintain a centralized database of brain tumor information, creates within the Scripps Research Institute the Florida Center for Brain Tumor Research, and creates a scientific advisory council.

Section 2. Provides a $4 million appropriation from the General Revenue Fund to the Florida Center for Brain Tumor Research for the 2006-07 fiscal year.

Section 3. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

According to the Department of Health, the department will need additional funding to develop a specific automated, electronic and centralized database of individuals with brain tumors and to provide staffing necessary to maintain quality, completeness and timeliness of the registry data; develop and maintain rules; and to participate in the Advisory Council meetings and activities.

Estimated Expenditures	1st Year	2nd Year (Annualized/Recurring)
Salaries		
2 OMC II @$38,048	$ 76,096	$ 77,997
1 OMC Mgr. @$42,818	$ 42,818	$ 43,889
29% fringe	$ 34,485	$ 35,347
Total	$153,399	$157,233
Expense		
3 FTE @ Standard Professional Espense Package with Medium Travel $16,460 1st year - $13,117 Recurring	$ 49,380	$ 39,351
Operating Capital Outlay		
3 FTE @ Standars OCO $1,900 1st year	$ 5,700	$ - 0 –
Total Estimates Expenditures	$208,479	$196,584

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to take an action requiring the expenditure of funds, nor does it reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor does it reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None

B. RULE-MAKING AUTHORITY:

The bill provides rule making authority for the Department of Health to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to brain tumor research; creating s.
3 381.853, F.S.; providing legislative findings and intent;
4 requiring the Department of Health to develop and maintain
5 a brain tumor registry; providing that individuals may
6 choose not to be listed in the registry; establishing the
7 Florida Center for Brain Tumor Research within the Scripps
8 Research Institute; providing purpose and goal of the
9 center; requiring the center to hold an annual brain tumor
10 biomedical technology summit; providing for clinical
11 trials and collaboration between certain entities;
12 providing for funding; establishing a scientific advisory
13 council and providing for composition and terms thereof;
14 providing rulemaking authority to the department;
15 providing an appropriation; providing an effective date.
16
17 Be It Enacted by the Legislature of the State of Florida:
18
19 Section 1. Section 381.853, Florida Statutes, is created
20 to read:
21 381.853 Florida Center for Brain Tumor Research.--
22 (1) The Legislature finds that each year an estimated
23 190,000 citizens of the United States are diagnosed with
24 cancerous and noncancerous brain tumors and that biomedical
25 research is the key to finding cures for these tumors. The
26 Legislature further finds that, although brain tumor research is
27 being conducted throughout the state, there is a lack of
28 coordinated efforts among researchers and health care providers.

29 Therefore, the Legislature finds that there is a significant
30 need for a coordinated effort to achieve the goal of curing
31 brain tumors. The Legislature further finds that the biomedical
32 technology sector meets the criteria of a high-impact sector,
33 pursuant to s. 288.108(6), having a high importance to the
34 state's economy with a significant potential for growth and
35 contribution to our universities and quality of life.
36 (2) It is the intent of the Legislature to establish a
37 coordinated effort among the state's public and private
38 universities and hospitals and the biomedical industry to
39 discover brain tumor cures and develop brain tumor treatment
40 modalities. Moreover, it is the intent of the Legislature to
41 expand the state's economy by attracting biomedical researchers
42 and research companies to the state.
43 (3) The Department of Health shall develop and maintain a
44 brain tumor registry that is an automated, electronic, and
45 centralized database of individuals with brain tumors. The
46 individual, or the parent or guardian of the individual if the
47 individual is a minor, may refuse to participate in the brain
48 tumor registry by signing a form obtained from the department or
49 from the health care practitioner or entity that provides brain
50 tumor care or treatment, which indicates that the individual
51 does not wish to be included in the registry. The decision to
52 not participate in the registry must be noted in the registry.
53 (4) There is established within the Scripps Research
54 Institute the Florida Center for Brain Tumor Research.
55 (a) The purpose of the center is to provide a central
56 repository for brain tumor biopsies from individuals throughout

57 the state, improve and monitor brain tumor biomedical research
58 programs within the state, facilitate funding opportunities, and
59 foster improved technology transfer of brain tumor research
60 findings into clinical trials and widespread public use.
61 (b) The goal of the center is to find cures for brain
62 tumors.
63 (c) The center shall hold an annual brain tumor biomedical
64 technology summit in the state to which physicians and
65 biomedical researchers from the state's public and private
66 universities and teaching hospitals are invited to share
67 biomedical research findings in order to expedite the discovery
68 of cures. Summit attendees shall cover the costs of such
69 attendance or obtain sponsorship for such attendance.
70 (d) The center shall encourage clinical trials in the
71 state on research that holds the promise of curing brain tumors.
72 The center shall facilitate partnerships between researchers,
73 treating physicians, and hospitals for the purpose of sharing
74 new techniques and new research findings, as well as
75 coordinating the voluntary donation of brain tumor biopsies.
76 (e) The center shall facilitate the formation of
77 partnerships between researchers, physicians, and hospitals in
78 the state.
79 (f) The center shall be funded through private, state, and
80 federal sources.
81 (5) There is established within the center a scientific
82 advisory council that includes biomedical researchers,
83 physicians, and representatives from public and private

84 universities and hospitals. The council shall meet at least
85 annually.
86 (a) The council shall consist of representatives from:
87 1. The Scripps Research Institute.
88 2. A teaching hospital, as defined in s. 408.07.
89 3. Public and private state universities.
90 4. The Department of Health.
91 5. The Florida Medical Association.
92 (b) Council members shall serve staggered 4-year terms.
93 (c) Members of the council shall serve without
94 compensation, and each organization represented shall cover all
95 expenses of its representative.
96 (6) The Department of Health may adopt, repeal, and amend
97 rules pursuant to ss. 120.536(1) and 120.54 relating to the
98 center and the administration of the brain tumor registry. Such
99 rules may include procedures for participating in brain tumor
100 research and for providing access to confidential information
101 necessary for brain tumor investigations. For the purposes of
102 the brain tumor registry, the rules may include procedures for a
103 health care practitioner and researcher to obtain authorization
104 to use the brain tumor registry and methods for an individual or
105 guardian to elect not to participate in the brain tumor
106 registry.
107 Section 2. The sum of $4 million is appropriated from the
108 General Revenue Fund to the Florida Center for Brain Tumor
109 Research for the 2006-2007 fiscal year for the purpose of
110 funding brain tumor research and funding for the procurement of
111 brain tumor biopsies.

112 Section 3. This act shall take effect July 1, 2006.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 01(for drafter's use only)

Bill No. **HB 1449**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill: Health Care General Committee
2 Representative(s) Gannon offered the following:
3
4 **Amendment (with title amendment)**
5 Remove everything after the enacting clause and insert:
6 Section 1. Section 381.853, Florida Statutes, is created
7 to read:
8 381.853 Florida Center for Brain Tumor Research.--
9 (1) The Legislature finds that each year an estimated
10 190,000 citizens of the United States are diagnosed with
11 cancerous and noncancerous brain tumors and that biomedical
12 research is the key to finding cures for these tumors. The
13 Legislature further finds that, although brain tumor research is
14 being conducted throughout the state, there is a lack of
15 coordinated efforts among researchers and health care providers.
16 Therefore, the Legislature finds that there is a significant
17 need for a coordinated effort to achieve the goal of curing
18 brain tumors. The Legislature further finds that the biomedical
19 technology sector meets the criteria of a high-impact sector,
20 pursuant to s. 288.108(6), having a high importance to the
21 state's economy with a significant potential for growth and
22 contribution to our universities and quality of life.

23 (2) It is the intent of the Legislature to establish a
24 coordinated effort among the state's public and private
25 universities and hospitals and the biomedical industry to
26 discover brain tumor cures and develop brain tumor treatment
27 modalities. Moreover, it is the intent of the Legislature to
28 expand the state's economy by attracting biomedical researchers
29 and research companies to the state.
30 (3) The Scripps Research Institute shall work with the
31 University of Florida McKnight Brain Institute to develop and
32 maintain a brain tumor registry that is an automated,
33 electronic, and centralized database of individuals with brain
34 tumors. The individual, or the parent or guardian of the
35 individual if the individual is a minor, may refuse to
36 participate in the brain tumor registry by signing a form
37 obtained from the department or from the health care
38 practitioner or entity that provides brain tumor care or
39 treatment, which indicates that the individual does not wish to
40 be included in the registry. The decision to not participate in
41 the registry must be noted in the registry.
42 (4) There is established within the Scripps Research
43 Institute the Florida Center for Brain Tumor Research.
44 (a) The purpose of the center is to provide a central
45 repository for brain tumor biopsies from individuals throughout
46 the state, improve and monitor brain tumor biomedical research
47 programs within the state, facilitate funding opportunities, and
48 foster improved technology transfer of brain tumor research
49 findings into clinical trials and widespread public use.
50 (b) The goal of the center is to find cures for brain
51 tumors.
52 (c) Funds specifically appropriated by the Legislature for
53 peer reviewed brain tumor research shall be awarded on a

54 competitive grant process developed by the Florida Brain Tumor
55 Research Center.
56 (d) The center shall hold an annual brain tumor biomedical
57 technology summit in the state to which scientists conducting
58 basic peer reviewed scientific research from the state's public
59 and private universities, teaching hospitals, and from for-
60 profit and non-profit institutions are invited to share
61 biomedical research findings in order to expedite the discovery
62 of cures. Summit attendees shall cover the costs of such
63 attendance or obtain sponsorship for such attendance.
64 (e) The center shall encourage clinical trials in the
65 state on research that holds the promise of curing brain tumors.
66 The center shall facilitate partnerships between researchers,
67 physicians, clinicians and hospitals for the purpose of sharing
68 new techniques and new research findings, as well as
69 coordinating the voluntary donation of brain tumor biopsies.
70 (f) The center shall facilitate the formation of
71 partnerships between researchers, physicians, clinicians and
72 hospitals in the state.
73 (g) The center shall submit an annual report to the
74 Governor, the President of the Senate, the Speaker of the House
75 of Representatives, and the Secretary of the Department of
76 Health no later than January 15th which contains recommendations
77 for legislative change necessary to foster a positive climate
78 for brain tumor research and treatment modalities in this state.
79 (h) The center shall be funded through private, state, and
80 federal sources.
81 (5) There is established within the center a scientific
82 advisory council that includes biomedical researchers,
83 physicians, clinicians and representatives from public and

84 private universities and hospitals. The council shall meet at
85 least annually.
86 (a) The council shall consist of:
87 1. Two members from the Florida McKnight Brain Institute
88 Center for Brain Therapy appointed by the Governor.
89 2. Two members from the Scripps Institute, one with an
90 expertise in basic brain tumor research, appointed by the
91 Speaker of the House.
92 3. Two members from other public and private state
93 universities and institutions directly involved in brain tumor
94 research, appointed by the President of the Senate.
95 4. Two physicians directly involved in the treatment of
96 brain tumor patients appointed by the Secretary of the
97 Department of Health.
98 (b) Council members shall serve staggered 4-year terms.
99 (c) Members of the council shall serve without
100 compensation, and each organization represented shall cover all
101 expenses of its representative.
102 (6) The Department of Health may adopt, repeal, and amend
103 rules pursuant to ss. 120.536(1) and 120.54 relating to the
104 center and the administration of the brain tumor registry. Such
105 rules may include procedures for participating in brain tumor
106 research and for providing access to confidential information
107 necessary for brain tumor investigations. For the purposes of
108 the brain tumor registry, the rules may include procedures for a
109 health care practitioner and researcher to obtain authorization
110 to use the brain tumor registry and methods for an individual or
111 guardian to elect not to participate in the brain tumor
112 registry.
113 Section 2. The sum of $4 million is appropriated from the
114 General Revenue Fund to the Florida Center for Brain Tumor

115 Research for the 2006-2007 fiscal year for the purpose of
116 funding brain tumor research and funding for the procurement of
117 brain tumor biopsies. From the total funds appropriated, an
118 amount of up to 10 percent may be used for administrative
119 expenses.
120 Section 3. This act shall take effect July 1, 2006.
121
122
123 ========== T I T L E A M E N D M E N T ==========
124 Remove the entire title and insert:
125 A bill to be entitled
126 An act relating to brain tumor research; creating s.
127 381.853, F.S.; providing legislative findings and intent;
128 requiring the Department of Health to develop and maintain
129 a brain tumor registry; providing that individuals may
130 choose not to be listed in the registry; establishing the
131 Florida Center for Brain Tumor Research within the Scripps
132 Research Institute; providing purpose and goal of the
133 center; requiring the center to hold an annual brain tumor
134 biomedical technology summit; providing for clinical
135 trials and collaboration between certain entities;
136 providing for funding; establishing a scientific advisory
137 council and providing for composition and terms thereof;
138 providing rulemaking authority to the department;
139 providing an appropriation; providing an effective date.
140

1 A bill to be entitled
2 An act relating to public records; creating s. 381.8531,
3 F.S.; providing an exemption from public records
4 requirements for personal identifying information
5 contained in records of the Florida Center for Brain Tumor
6 Research; providing for future review and repeal;
7 providing a finding of public necessity; providing a
8 contingent effective date.
9
10 Be It Enacted by the Legislature of the State of Florida:
11
12 Section 1. Section 381.8531, Florida Statutes, is created
13 to read:
14 381.8531 Florida Center for Brain Tumor Research; public
15 records exemption.--
16 (1) The following information held by the Florida Center
17 for Brain Tumor Research is confidential and exempt from s.
18 119.07(1) and s. 24, Art. I of the State Constitution:
19 (a) An individual's medical record.
20 (b) Any information received from an individual from
21 another state or nation or the Federal Government that is
22 otherwise confidential or exempt pursuant to the laws of that
23 state or nation or pursuant to federal law.
24 (2) This section is subject to the Open Government Sunset
25 Review Act in accordance with s. 119.15 and shall stand repealed
26 on October 2, 2011, unless reviewed and saved from repeal
27 through reenactment by the Legislature.

28 Section 2. The Legislature finds that it is a public
29 necessity that an individual's medical record held by the brain
30 tumor registry developed pursuant to s. 381.853(3), Florida
31 Statutes, be made confidential and exempt from public records
32 requirements. Matters of personal health are traditionally
33 private and confidential concerns between the patient and the
34 health care provider. The private and confidential nature of
35 personal health matters pervades both the public and private
36 health care sectors. For these reasons, the individual's
37 expectation of and right to privacy in all matters regarding his
38 or her personal health necessitates this exemption. The
39 Legislature further finds that it is a public necessity to
40 protect a patient's medical record because the release of such
41 record could be defamatory to the patient or could cause
42 unwarranted damage to the name or reputation of that patient.
43 Finally, the Legislature finds that it is a public necessity to
44 protect information received by the brain tumor registry from an
45 individual from another state or nation or the Federal
46 Government that is otherwise exempt or confidential pursuant to
47 the laws of that state or nation or pursuant to federal law.
48 Without this protection, another state or nation or the Federal
49 Government might be less likely to provide information to the
50 registry in the furtherance of its duties and responsibilities.
51 Section 3. This act shall take effect July 1, 2006, if
52 House Bill 1449 or similar legislation is adopted in the same
53 legislative session or an extension thereof and becomes law.

1 A bill to be entitled
2 An act relating to automated external defibrillators;
3 requiring certain high schools to have an operational
4 automated external defibrillator on the school grounds;
5 encouraging public and private partnerships to cover
6 certain costs associated with defibrillators; providing an
7 effective date.
8
9 Be It Enacted by the Legislature of the State of Florida:
10
11 Section 1. Each high school that is a member of the
12 Florida High School Athletic Association shall have an
13 operational automated external defibrillator on the high school
14 grounds. Public and private partnerships are encouraged to cover
15 the costs associated with the purchase and placement of the
16 defibrillator and training in the use of the defibrillator.
17 Section 2. This act shall take effect July 1, 2006.

Health Care General Committee

Wednesday, March 28, 2006
10:30 AM – 12:00 PM
306 HOB

COMMITTEE MEETING PACKET

Revised

ADDENDUM "A" (03/27/2006; 8:00 PM)

Allan G. Bense
Speaker

Gayle B. Harrell
Chair

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1499 Automated External Defibrillators
SPONSOR(S): Brutus and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/CS/SB 248

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Health Care General Committee		Ciccone	Brown-Barrios
2) Education Appropriations Committee			
3) Health & Families Council			
4)			
5)			

SUMMARY ANALYSIS

An Automatic External Defibrillator (AED) is a small, lightweight device used to assess a person's heart rhythm, and, if necessary, administer an electric shock to restore a normal rhythm in victims of sudden cardiac arrest. AEDs are designed to be used by people without medical backgrounds, such as police, firefighters, flight attendants, security guards and lay rescuers.

HB 1499 requires each high school that is a member of the Florida High School Athletic Association to have an operational automated external defibrillator (AED) on high school grounds. The bill encourages Public and Private Partnerships to cover the cost associated with the purchase and placement of the AED and training in the use of the AED.

There is no state fiscal impact associated with this bill. The bill encourages public and private partnerships to cover the cost associated with the purchase of an AED, which is estimated between $800 and $1,700 per defibrillator.

The effective date of this bill is July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Current law does not require high schools to have an AED on high school grounds. The bill would require each high school that is a member of the Florida High School Athletic Association to have an operational AED on the high school grounds. The bill encourages public and private partnerships to cover the cost associated with the purchase and placement of the AED and training in the use of the AED.

Background

Cardiac Arrest:

The American Heart Association (AHA) describes a cardiac arrest as:

> Cardiac arrest is the sudden, abrupt loss of heart function. It is also called sudden cardiac arrest or unexpected cardiac arrest. Sudden death (also called sudden cardiac death) occurs within minutes after symptoms appear. The most common underlying reason for patients to die suddenly from cardiac arrest is coronary heart disease. Most cardiac arrests that lead to sudden death occur when the electrical impulses in the diseased heart become rapid (ventricular tachycardia) or chaotic (ventricular fibrillation) or both. This irregular heart rhythm (arrhythmia) causes the heart to suddenly stop beating.[1]

According to the AHA, brain death and permanent death start to occur within 4 to 6 minutes after someone experiences cardiac arrest. 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 process called defibrillation. The AHA states that a victim's chances of survival are reduced by 7 to 10 percent with every passing minute without defibrillation, and few attempts at resuscitation succeed after 10 minutes.

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. The AHA estimates that more than 95 percent of cardiac arrest victims die before reaching the hospital. In cases where defibrillation is provided within 5 to 7 minutes, the survival rate from sudden cardiac arrest can be up to 49 percent.

AEDs in Schools

The Department of Education (DOE) has indicated that, in 2005-06, there were 671 public senior high schools and 86 charter schools that include high school grades. The Florida High School Athletic Association reports that approximately 638 high schools are members of its association. The Department of Education recently conducted a survey of school districts concerning AEDs. Thirty-five of 67 districts plus two lab schools and the Florida School for the Deaf and the Blind responded. According to the responses, 23 districts have some type of AED, and 17 of the 23 districts have some type of AED at each high school within the district. Some school districts have already placed AEDs in each school, according to the DOE.

[1] See definition of "cardiac arrest" at www.americanheart.org

School Health
Section 381.0056, F.S., provides requirements for the school health services program. The Department of Health has the responsibility, in cooperation with the Department of Education, to supervise the administration of the school health services program and perform periodic program reviews. The principal at each school has immediate supervisory authority over the health personnel working in the school. Each county health department must develop, jointly with the district school board and the local school health advisory committee, a school health services plan that must include, at a minimum, provisions outlined in s. 381.0056, F.S., which include meeting emergency health needs in each school. "Emergency health needs" is defined to mean the onsite management and aid for illness or injury pending the student's return to the classroom or release to a parent, guardian, designated friend, or designated health care provider.[2]

Federal Legislation on AEDs in Schools
The Automatic Defibrillation in Adam's Memory Act was passed by Congress and signed into law on July 1, 2003.[3] The legislation is intended to encourage schools to have the equipment and trained expertise to restart hearts in emergencies. The Act calls for establishment of a clearinghouse to provide information to increase access to defibrillation in schools and allows use of grant funds under the Public Health Service Act to support the clearinghouse. The act has never been funded; it is scheduled to be reauthorized this year.

Florida High School Athletic Association
Under s. 1006.20, F.S., the Florida High School Athletic Association (FHSAA) is designated as the governing nonprofit organization of athletics in Florida public schools. The bylaws of the organization are the rules by which high school athletic programs in its member schools, and the students who participate in them, are governed, unless otherwise specifically provided by statute.

The FHSAA has adopted guidelines and policies, which strongly recommend that an AED be present and available for use if needed at the site of every interscholastic athletic contest conducted during the preseason and regular season in which member schools participate.[4] The association's guidelines and policies require that an AED be available at the site of every Florida High School Athletic Association state championship series contest on the district, regional, sectional and state levels.

The FHSAA reported to the DOE that:
- 420 of the association's full members are public schools;
- 216 of the association's full members are private schools;
- 3 of the association's affiliate members are public high schools; and
- 44 of the association's affiliate members are private high schools.

Cardiac Arrest Survival Act Immunity

Section 768.1325, F.S., the Cardiac Survival Act, provides immunity from liability for a person who uses or attempts to use an automated external defibrillator as defined under s. 768.1325(2)(b), F.S..

The immunity provided under s. 768.1325, F.S., to persons using or attempting to use an AED

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[2] Section 381.0056(e)(a), F.S.

[3] See Public Law 108-41, 117 Stat.839.

[4] See the 2005-06 Florida High School Athletic Association Handbook (Section A, Paragraph 4 of Policy 3, "General Policies on Interscholastic Contests." Within the handbook) containing the association's policy on AEDs, which was passed by its Board of Directors and went into effect on July 1, 2005, www.fhsaa.org/rules/handbook

does not apply if the harm 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;
- 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.

C. SECTION DIRECTORY:

Section 1. Creates an undesignated section of law and provides that each high school that is a member of the Florida High School Athletic Association have an operational automated external defibrillator (AED) on high school grounds.

Section 2. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None

2. Expenditures:

   None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None

2. Expenditures:

   The Division of Emergency Medical Operations within the Department of Health estimates that each AED will cost between $800 and $1,700. School districts may incur costs to purchase an AED unless an AED is donated.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The Division of Emergency Medical Operations within the Department of Health estimates that each AED will cost between $800 and $1,700. Private schools may incur costs to purchase an AED unless an AED is donated.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:
None

1. Applicability of Municipality/County Mandates Provision:

   This bill does not require counties or municipalities to take action requiring the expenditure of funds, nor does it reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor does it reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1451 Public Records
SPONSOR(S): Gannon
TIED BILLS: HB 1449 **IDEN./SIM. BILLS:** SB 2564

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Health Care General Committee		Ciccone	Brown-Barrios
2) Governmental Operations Committee			
3) Health & Families Council			
4)			
5)			

SUMMARY ANALYSIS

HB 1451 creates a public records exemption for personal identifying information contained in records of the Florida Center for Brain Tumor Research. It provides for future review and repeal of the exemption, provides a statement of public necessity, and provides a contingent effective date.

This bill does not grant rule-making authority to any administrative agency.

This bill requires a two-thirds vote of the members present and voting for passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill decreases access to public records.

B. EFFECT OF PROPOSED CHANGES:

This bill creates a public records exemption for an individual's medical record on the basis that an individual's expectation of and right to privacy in all matters regarding his or her personal health necessitates this exemption.

The bill provides for future review and repeal of the exemption on October 2, 2011. It also provides a statement of public necessity and a contingent effective date.

C. SECTION DIRECTORY:

Section 1. Amends s. 381.8531, F.S., to create a public records exemption for an individual's medical record.

Section 2. Provides a public necessity statement.

Section 3. Provides a July 1, 2006 effective date that is contingent upon the passage of HB 1449 or similar legislation.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   This bill does not create, modify, amend or eliminate a state revenue source.

2. Expenditures:

   See "FISCAL COMMENTS"

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   This bill does not create, modify, amend, or eliminate a local revenue source.

2. Expenditures:

   See "FISCAL COMMENTS"

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

This bill could create a fiscal impact on state and local governments, because staff responsible for complying with public records requests will require training related to the newly created public records exemption.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

Voter Requirement

Article I, s. 24(c) of the Florida Constitution, requires a two-thirds vote of the members present and voting for passage of a newly created public records or public meetings exemption. The bill creates a public records exemption. Thus, it requires a two-thirds vote for passage.

Public Necessity Statement

Article I, s. 24 (c) of the Florida Constitution, requires a statement of public necessity (public necessity statement) for a newly created public records or public meetings exemption. The bill creates a public records exemption. Thus, it includes a public necessity statement.

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES