



Health & Family Services Policy Council

**Monday, March 1, 2010
2:15 PM - 3:00 PM
Webster Hall (212 Knott)**

**Larry Cretul
Speaker**

**Ed Homan
Chair**

Council Meeting Notice

HOUSE OF REPRESENTATIVES

Health & Family Services Policy Council

Start Date and Time: Monday, March 01, 2010 02:15 pm
End Date and Time: Monday, March 01, 2010 03:00 pm
Location: Webster Hall (212 Knott)
Duration: 0.75 hrs

Consideration of the following bill(s):

CS/HB 295 Food Service Inspections of Domestic Violence Centers by Health Care Regulation Policy Committee, Hukill
CS/HB 411 Child Care Facilities by Health Care Services Policy Committee, Nehr
HB 871 Family Builders Program by Renuart
HB 883 Standards for Compressed Air by Bovo
HB 889 Biomedical and Social Research by Adkins

Pursuant to rule 7.13, the deadline for amendments to bills on the agenda by non-appointed members is 6:00 p.m., Friday, February 26, 2010.

By request of the Chair, all council members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Friday, February 26, 2010.

NOTICE FINALIZED on 02/22/2010 16:19 by Alison.Cindy



The Florida House of Representatives

Health & Family Services Policy Council

AGENDA

March 1, 2010
2:15 PM – 3:00 PM
Webster Hall (212 Knott)

I. Opening Remarks by Chair Homan

II. Consideration of the following bill(s):

CS/HB 295 – Food Service Inspections of Domestic Violence Centers by Health Care Regulation Policy Committee and Rep. Hukill

CS/HB 411 – Child Care Facilities by Health Care Services Policy Committee and Rep. Nehr

HB 871 – Family Builders Program by Rep. Renuart

HB 883 – Standards for Compressed Air by Rep. Bovo

HB 889 – Biomedical and Social Research by Rep. Adkins

III. Closing Remarks

IV. Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 295 Food Service Inspections of Domestic Violence Centers
SPONSOR(S): Health Care Regulation Policy Committee; Hukill
TIED BILLS: IDEN./SIM. BILLS: SB 532

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Health Care Regulation Policy Committee	14 Y, 0 N, As CS	Guy	Calamas
2)	Health & Family Services Policy Council		Quinn-Gato	Gormley
3)				
4)				
5)				

SUMMARY ANALYSIS

Committee Substitute for House Bill 295 creates an exception to the current regulatory scheme for food services inspections of certified domestic violence centers.

Current law provides for a tiered system of food services inspection, based on the number of residents. The regulatory scheme is not based on whether the facility is preparing and serving food to residents, or whether residents prepare and serve their food themselves.

The bill requires the Florida Department of Health to conduct food service inspections for certified domestic violence centers at the inspection level required for facilities having five or fewer residents without regard to the actual number of residents in each center. The bill maintains a resident number-based inspection scheme for those centers that prepare and serve food to residents or advertise food or drink for public consumption.

The bill has an insignificant positive fiscal impact to the Department of Health (see Fiscal Comments).

The bill takes effect July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Certified Domestic Violence Centers

There are 42 certified domestic violence centers ("Centers") in Florida which serve all 67 counties.¹ In 2008-2009, these Centers provided emergency shelter to 14,667 individuals, the majority of which were women and children.² The Centers combined have a capacity of 1,818 beds and range in size from 16-bed to 102-bed facilities.³ The average capacity is 41 beds.⁴

Domestic violence centers are annually certified and regulated by the Florida Department of Children and Families ("DCF") under Chapter 39, F.S. Certified centers must, at a minimum, provide: temporary emergency shelter for more than 24 hours; counseling; and information and referral services.⁵ The Centers "...strive to offer a homelike setting where [domestic violence] survivors may seek refuge and feel safe."⁶

For certification purposes, DCF requires Centers to have a satisfactory environmental health inspection report completed by the local county health department.⁷ Most Centers have kitchen areas which are equipped with basic supplies and tools, but do not provide prepared meals to residents. One of the 42 certified centers provides meal service to residents.⁸

Florida Department of Health Food Service Protection

The Florida Department of Health ("DOH") administers an Environmental Health Program pursuant to s. 381.006, which encompasses a food service component.⁹ As part of this program, DOH regulates

¹ Florida Coalition Against Domestic Violence, see <http://www.fcadv.org/about.php> (last visited January 26, 2010).

² Florida Coalition of Against Domestic Violence, *Domestic Violence Annual Report 7/1/2008 – 6/30/2009*, see <http://www.dcf.state.fl.us/domesticviolence/publications/dv0809.pdf> (last visited January 26, 2010).

³ Florida Department of Children & Families, *Domestic Violence Annual Report 2007-2008*, see <http://www.dcf.state.fl.us/domesticviolence/publications/dvff0708.pdf> (last visited January 26, 2010).

⁴ *Id.*

⁵ S. 39.905(1)(c), F.S.

⁶ Florida Department of Children & Families, *Domestic Violence Annual Report 2007-2008*, see <http://www.dcf.state.fl.us/domesticviolence/publications/dvff0708.pdf> (last visited January 26, 2010).

⁷ Rule 65H-1.102, F.A.C.

⁸ Department of Children and Family Services Staff Analysis and Economic Impact, House Bill 295 (November 5, 2009).

⁹ s. 381.0072, F.S.

group care facilities.¹⁰ Certified domestic violence centers are not specifically referenced in this section, but DOH treats the Centers as group-care-facilities for inspection purposes.¹¹ All residential facilities are subject to annual physical plant inspections.¹²

DOH uses a tier system based on number of residents to determine the level of regulation and inspection required for any community-based residential facility that provides food preparation facilities to its residents.¹³ Tier One applies to facilities with 1-5 residents; Tier Two applies to facilities with 6-10 residents; and Tier Three applies to facilities with 11 or more residents.¹⁴ The Tier system is designed to apprehend the risk of food-borne illness that increases as the number of residents in a facility increases.¹⁵ The Tier system is predicated upon number of residents in a facility, not whether those residents prepare their own meals or meals are prepared for them by others.

Regulations for Tiers One and Two are less stringent than Tier Three and, according to DOH, "...allow smaller operations to maintain a home-like environment in their kitchens..."¹⁶ Tier Three facilities, with larger numbers of residents, are subject to the more rigorous requirements of Rule 64E-11, F.A.C.¹⁷ Typically, Tier Three facilities provide meal service to residents and these facilities have a professional kitchen and food preparation staff.¹⁸ These facilities are subject to quarterly inspections by DOH¹⁹ and are inspected according to the following risk factors: types of food served; amount of preparation required; population served; and, quantity of food prepared.²⁰ Currently, most certified domestic violence centers house over 11 residents and thus are inspected as Tier Three facilities even though a vast majority of them do not provide meal services to residents nor do they hire food preparation staff.

Effect of Proposed Changes

Committee Substitute for House Bill 295 requires food inspection services performed by DOH to treat all certified domestic violence centers as having five or fewer residents notwithstanding the actual number of residents in each Center. The effect of this requirement is to subject certified domestic violence centers to the lowest threshold of food service regulation and inspection requirements – Tier One. Any Center with six or more residents would be exempted from DOH food inspection regulations and would be subject to lower inspection regulations than other types of facilities with six or more residents. Currently, no Center has a residential capacity lower than 16 beds.

Committee Substitute for House Bill 295 provides an exemption for certified domestic violence centers from the definition of "food service establishment" in Section 381.0072(1)(b), F.S. This exemption clarifies that certified domestic violence centers are not subject to the food inspection regulatory scheme in Rule 64E-12.004, F.A.C., which requires facilities to be inspected according to the number of residents housed. The exemption does not include domestic violence centers that prepare and serve meals to their residents.

B. SECTION DIRECTORY:

Section 1: Amends s. 381.006, F.S., relating to environmental health.

Section 2: Amends s. 381.0072, F.S., relating to food service protection.

Section 3: Provides an effective date of July 1, 2010.

¹⁰ s. 381.006(16), F.S.

¹¹ Department of Children and Family Services Staff Analysis and Economic Impact, House Bill 295 (November 5, 2009).

¹² According to DOH staff, annual inspections are required by DOH procedures as outlined in the Environmental Health Program Manual 150-4.

¹³ Rule 64E-12.004, F.A.C.

¹⁴ *Id.*

¹⁵ Department of Health Bill Analysis, Economic Statement and Fiscal Note, House Bill 295 (November 18, 2009).

¹⁶ *Id.*

¹⁷ Rule 64E-11.001, F.A.C., prescribes the sanitary practices for food service establishments that serve food or drink to the public.

¹⁸ Department of Health Bill Analysis, Economic Statement and Fiscal Note, House Bill 295 (November 18, 2009).

¹⁹ According to DOH staff, quarterly inspections are required by DOH procedures as outlined in the Environmental Health Program Manual 150-4.

²⁰ Florida Department of Health, Food Hygiene Program. See <http://www.doh.state.fl.us/Environment/community/food/index.html> (last visited on February 19, 2010).

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
See Fiscal Comments.
2. Expenditures:
See Fiscal Comments.

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, DOH already exempts approximately 13 Centers from quarterly inspection and sanitation certification.²¹ DOH prepared its original fiscal impact to include the 25 Centers DOH subjects to Tier Three inspection and certification. The bill, as amended, would require DOH to perform quarterly inspections and sanitation certification for one Center because currently only one Center prepares and serves meals to its residents, or advertises food and drink to the public. This results in an annual net savings to the department of \$3,960.

	<i>1st Year Recurring</i>	<i>2nd Year</i>
Estimated cost to DOH to perform quarterly inspections (24 centers X \$100 per inspection X 3 inspections per center)	\$7,200	\$0
Estimated reduction in sanitation certificate fees collected by DOH (24 centers X \$135 fee)	(\$3,240)	\$0
Estimated Net Reduction in Costs	\$3,960	\$0

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

²¹Teleconference with Florida Department of Health staff, February 22, 2010 (notes on file with Council).

B. RULE-MAKING AUTHORITY:

C. The Department of Health has sufficient rule-making authority to implement provisions of the bill 295.

D. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On February 2, 2010, the Health Care Regulation Policy Committee adopted one amendment to House Bill 295.

The amendment provides that the exemption from the definition of "food service establishment" in s. 381.0072, F.S., does not apply to a certified domestic violence center that prepares and serves meals to its residents, or advertises food and drink to the public. Such a center would be inspected according to the number of residents, based on the existing regulatory structure.

The bill was reported favorably as a Committee Substitute. This analysis reflects the committee substitute.

1 A bill to be entitled
2 An act relating to food service inspections of domestic
3 violence centers; amending s. 381.006, F.S.; including the
4 investigation of domestic violence center food service
5 programs within the Department of Health's environmental
6 health program; amending s. 381.0072, F.S.; revising the
7 definition of the term "food service establishment" to
8 exclude domestic violence centers under certain
9 conditions; providing an effective date.

10
11 Be It Enacted by the Legislature of the State of Florida:

12
13 Section 1. Subsection (18) is added to section 381.006,
14 Florida Statutes, to read:

15 381.006 Environmental health.—The department shall conduct
16 an environmental health program as part of fulfilling the
17 state's public health mission. The purpose of this program is to
18 detect and prevent disease caused by natural and manmade factors
19 in the environment. The environmental health program shall
20 include, but not be limited to:

21 (18) A food service inspection function for domestic
22 violence centers that are certified and monitored by the
23 Department of Children and Family Services under part XIII of
24 chapter 39, which shall be conducted annually and be limited to
25 the requirements in department rule applicable to community-
26 based residential facilities with five or fewer residents.

27

28 | The department may adopt rules to carry out the provisions of
 29 | this section.

30 | Section 2. Paragraph (b) of subsection (1) of section
 31 | 381.0072, Florida Statutes, is amended to read:

32 | 381.0072 Food service protection.—It shall be the duty of
 33 | the Department of Health to adopt and enforce sanitation rules
 34 | consistent with law to ensure the protection of the public from
 35 | food-borne illness. These rules shall provide the standards and
 36 | requirements for the storage, preparation, serving, or display
 37 | of food in food service establishments as defined in this
 38 | section and which are not permitted or licensed under chapter
 39 | 500 or chapter 509.

40 | (1) DEFINITIONS.—As used in this section, the term:

41 | (b) "Food service establishment" means any facility, as
 42 | described in this paragraph, where food is prepared and intended
 43 | for individual portion service, and includes the site at which
 44 | individual portions are provided. The term includes any such
 45 | facility regardless of whether consumption is on or off the
 46 | premises and regardless of whether there is a charge for the
 47 | food. The term includes detention facilities, child care
 48 | facilities, schools, institutions, civic or fraternal
 49 | organizations, bars and lounges and facilities used at temporary
 50 | food events, mobile food units, and vending machines at any
 51 | facility regulated under this section. The term does not include
 52 | private homes where food is prepared or served for individual
 53 | family consumption; nor does the term include churches,
 54 | synagogues, or other not-for-profit religious organizations as
 55 | long as these organizations serve only their members and guests

56 | and do not advertise food or drink for public consumption, or
 57 | any facility or establishment permitted or licensed under
 58 | chapter 500 or chapter 509; nor does the term include any
 59 | theater, if the primary use is as a theater and if patron
 60 | service is limited to food items customarily served to the
 61 | admittees of theaters; nor does the term include a research and
 62 | development test kitchen limited to the use of employees and
 63 | which is not open to the general public; nor does the term
 64 | include a domestic violence center certified and monitored by
 65 | the Department of Children and Family Services under part XIII
 66 | of chapter 39 if the center does not prepare and serve food to
 67 | its residents and does not advertise food or drink for public
 68 | consumption.

69 | Section 3. This act shall take effect July 1, 2010.

CS/HB 411

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 411 Child Care Facilities
SPONSOR(S): Health Care Services Policy Committee; Nehr
TIED BILLS: **IDEN./SIM. BILLS:** SB 834

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Health Care Services Policy Committee	13 Y, 0 N, As CS	Schoonover	Schoolfield
2)	Health & Family Services Policy Council		Quinn-Gato	Gormley
3)				
4)				
5)				

SUMMARY ANALYSIS

Committee Substitute for House Bill 411 amends ch. 402, F.S., to create a definition for household children and requires that certain household children be included in the capacity calculation of licensed family day care homes and large family child care homes. Specifically, the bill defines household children to mean children who are related by blood, marriage, or legal adoption to, or who are the legal wards of, the family day care home operator, the large family child care home operator, or an adult household member who permanently or temporarily resides in the home. The definition also leaves supervision of the operator's household children to the discretion of the operator unless those children receive subsidized child care to be in the home. The bill provides that household children under the age of 13 be included in the overall capacity of the licensed home when on the premises of a family day care home, large family child care home or on a field trip with children enrolled in child care.

The bill also requires persons advertising or publishing an advertisement for a child care facility, family day care home, or large family child care home to include in the advertisement the state or local agency license number or registration number of such facility or home.

The bill does not appear to have a fiscal impact on state or local governments.

The bill becomes effective on July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Background

Licensing

The Department of Children and Family Services (DCF) establishes licensing standards that each licensed child care facility in the state must meet.¹ However, current law permits any county with licensing standards that meet or exceed the state minimum standards to either designate a local licensing agency to license child care facilities in the county or contract with DCF to delegate the administration of the state minimum standards in the county to the department.² Currently, DCF is responsible for administering child care licensing and training in 61 of Florida's 67 counties. The remaining six counties (Brevard, Broward, Hillsborough, Palm Beach, Pinellas, and Sarasota) have licensing standards that exceed the state's minimum licensing standards for family day care homes.³ These counties license family day care homes as a function of county government.

Family Day Care Homes

A family day care home is, "[a]n occupied residence in which child care is regularly provided for children from at least two unrelated families and which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit."⁴ Care can be provided for one of the following groups of children, including children under the age of 13 who are related to the caregiver:

- A maximum of four children from birth to 12 months;
- A maximum of three children from birth to 12 months, and other children over the age of 12 months, up to a total of six children;
- A maximum of six preschool children if all are older than 12 months;

¹ s. 402.305(1), F.S.

² s. 402.306(1), F.S.

³ "Child Care Services Placement Options for Legislative Consideration," Office of Program Policy Analysis and Government Accountability, Research Memorandum. December 30, 2009. (email received by: Kerry Schoolfield, Staff Director)

⁴ s. 402.302(7), F.S.

- A maximum of 10 children if no more than five are preschool age and, of those five, no more than two are under 12 months.⁵

Current law requires family day care homes have either a license or registration. The home must have a license if it is presently being licensed under an existing county ordinance, participating in the subsidized child care program, or if the county passes a resolution requiring licensure.⁶ If not subject to license, then the family day care home must register annually with DCF and receive a registration number.⁷

Large Family Child Care Home

A large family child care home is an occupied residence in which: (1) child care is provided for children from at least two unrelated families; (2) for payment, fee, or grant for any of the children receiving care, whether or not operated for profit; and (3) which has at least two full-time child care personnel.⁸ Before seeking licensure, a large family child care homes must first have operated for a minimum of 2 consecutive years, with an operator who has had a child development associate credential or its equivalent for 1 year.⁹ Care can be provided to one of the following groups, which includes those children under 13 years of age who are related to the caregiver:

- A maximum of 8 children from birth to 24 months;
- A maximum of 12 children, with no more than 4 children under 24 months.¹⁰

Large family day care homes are required to be licensed by DCF and subject to minimum standards established by rule.¹¹ DCF is permitted to provide technical assistance to counties and family day care home providers to enable the counties and providers to achieve compliance with minimum standards for large family child care homes.¹²

Background Screening

Personnel of both family day care homes and large family child care homes are subject to level 2 screening and other screening requirements established by law.¹³ Screening includes any member over the age of 12 years of a family day care home operator's family, or persons over the age of 12 years residing with the operator in the family day care home.¹⁴ Family members or persons residing with the operator who are between the ages of 12 and 18 years are not required to be fingerprinted but are screened for delinquency records.¹⁵

Supervision

DCF has promulgated administrative rules related to supervision of children and staffing requirements.¹⁶ These rules apply to all children in the home including children related to the operator. Specifically, operators are responsible for the supervision of children at all times, including when the children are napping or sleeping.¹⁷ When children are napping or sleeping in bedrooms, the rules require that the room's doors must remain open.¹⁸ All children, during the daytime, must have adult

⁵ *Id.*

⁶ s. 402.313(1), F.S.

⁷ s. 402.313(1)(a), F.S.

⁸ s. 402.302(8), F.S.

⁹ *Id.* See also 402.3131(1)(a), F.S.

¹⁰ s. 402.302(8), F.S.

¹¹ ss. 402.3131(1),(7), F.S.

¹² s. 402.3131(1)(b), F.S.

¹³ s. 402.313(3), F.S.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ 65C-20.009, F.A.C.

¹⁷ 65C-20.009(5)(a), F.A.C.

¹⁸ *Id.*

supervision consisting of watching and directing their activities, both indoors and outdoors.¹⁹ If a child is sick and placed in isolation, he or she must remain within sight and hearing of the operator.²⁰ Additionally, children being diapered or when changing clothes must be attended to at all times.²¹

Advertisement

Any advertisement for a child care facility must include within such advertisement the state or local agency license number of the facility.²² Failure to do so is a misdemeanor of the first degree.²³ This advertisement requirement does not address whether registered family day care homes have to list their DCF-issued registration number in an advertisement. Therefore under current law, registered family day care homes are not required to list their registration number in advertisements.

Effect of Proposed Changes

This bill creates the definition, "household children," to mean children who are related by blood, marriage, or legal adoption to, or who are the legal wards of, the family day care home operator, large family child care home operator, or an adult household member who permanently or temporarily resides in the home. The effect of this definition will increase the number of children considered to be part of the child care home. Current law only includes children under 13 years of age who are related to the caregiver. This definition counts children who may be related to the care-giving operator as well as to an adult household resident who is not the caregiver, such as a temporary or permanent resident. The definition also conditions supervision of the operator's household children to the discretion of the operator unless those children receive subsidized child care to be in the home. In effect, DCF inspectors will not be able to restrict an operator's supervision of their own household children, while still holding them to the same supervision standards for the other children enrolled in child care.²⁴

This bill also amends the definitions for both "family day care home" and "large family child care home" to clarify that "household children" are included in the calculations to determine the maximum numbers of children that can receive care. While current law includes children under 13 years of age that are related to the caregiver in determining the amount of children that can be cared for, the use of "household children" will provide more clarification and direction as to what is considered for calculation purposes. The meaning of the term is expanded to include children related by blood, marriage, or legal adoption to, or who are the legal wards of, the operator or a permanent or temporary adult household member. Thus, children who are related to any adult household guest over the age of 13, such as an adult household guest on vacation with his or her children would also be included in the calculation. Additionally, the bill provides that the household children be included in the overall capacity of the licensed home when they are on the premises or on a field trip with children enrolled in licensed care. The effect of this change will ensure that the capacity is adjusted if household children are not on the premises or participating in a fieldtrip.

The bill amends advertising requirements in s. 402.318, F.S. to include family day care homes and large family child care homes. It also requires registered family day care homes to include their registration numbers in advertisements. Further, the bill also amends the requirements so that they also apply to publications. The effect of this change will protect the consumers from fraudulent child care advertisements and publications.

B. SECTION DIRECTORY:

Section 1. Amends s. 402.302, relating to definitions.

Section 2. Amends s. 402.318, relating to advertisement.

¹⁹ *Id.*

²⁰ 65C-20.009(5)(b), F.A.C.

²¹ 65C-20.009(5)(c), F.A.C.

²² S. 402.318, F.S.

²³ *Id.*

²⁴ 65C-20.009(5), F.A.C.

Section 3. Provides an effective date of July 1, 2010.

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:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor 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/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On February 2, 2010, the Health Care Services Policy Committee adopted a strike-all amendment to HB 411. The amendment does the following:

- Provides technical changes to the definitions of family day care home and large family child care home.
- Amends the definition of household children to:
 - Removes a redundant reference to level 2 background screening requirement, which is already required in law for all occupants in the facility over 13 years of age.
 - Clarifies the definition to encompass the children who are related by blood, marriage, or legal adoption to, or legal wards of, any adult household member who is permanently or temporarily residing with the operator.
- Amends the advertising requirements so that it requires registered family day care homes to list their registration number in advertisements.
- Deletes the language that required DCF or the local licensing agency to report advertising violations to the state attorney's office.

1 A bill to be entitled
2 An act relating to child care facilities; amending s.
3 402.302, F.S.; revising and providing definitions;
4 providing for certain household children to be included in
5 calculations regarding the capacity of licensed family day
6 care homes and large family child care homes; providing
7 conditions for supervision of household children of
8 operators of family day care homes and large family child
9 care homes; amending s. 402.318, F.S.; revising
10 advertising requirements applicable to child care
11 facilities; providing penalties; providing an effective
12 date.

13

14 Be It Enacted by the Legislature of the State of Florida:

15

16 Section 1. Section 402.302, Florida Statutes, is amended
17 to read:

18 402.302 Definitions.—As used in this chapter, the term:

19 (1) "Child care" means the care, protection, and
20 supervision of a child, for a period of less than 24 hours a day
21 on a regular basis, which supplements parental care, enrichment,
22 and health supervision for the child, in accordance with his or
23 her individual needs, and for which a payment, fee, or grant is
24 made for care.

25 (2) "Child care facility" includes any child care center
26 or child care arrangement which provides child care for more
27 than five children unrelated to the operator and which receives
28 a payment, fee, or grant for any of the children receiving care,

29 | wherever operated, and whether or not operated for profit. The
 30 | following are not included:

31 | (a) Public schools and nonpublic schools and their
 32 | integral programs, except as provided in s. 402.3025;

33 | (b) Summer camps having children in full-time residence;

34 | (c) Summer day camps;

35 | (d) Bible schools normally conducted during vacation
 36 | periods; and

37 | (e) Operators of transient establishments, as defined in
 38 | chapter 509, which provide child care services solely for the
 39 | guests of their establishment or resort, provided that all child
 40 | care personnel of the establishment are screened according to
 41 | the level 2 screening requirements of chapter 435.

42 | (3) "Child care personnel" means all owners, operators,
 43 | employees, and volunteers working in a child care facility. The
 44 | term does not include persons who work in a child care facility
 45 | after hours when children are not present or parents of children
 46 | in Head Start. For purposes of screening, the term includes any
 47 | member, over the age of 12 years, of a child care facility
 48 | operator's family, or person, over the age of 12 years, residing
 49 | with a child care facility operator if the child care facility
 50 | is located in or adjacent to the home of the operator or if the
 51 | family member of, or person residing with, the child care
 52 | facility operator has any direct contact with the children in
 53 | the facility during its hours of operation. Members of the
 54 | operator's family or persons residing with the operator who are
 55 | between the ages of 12 years and 18 years shall not be required
 56 | to be fingerprinted but shall be screened for delinquency

57 records. For purposes of screening, the term shall also include
 58 persons who work in child care programs which provide care for
 59 children 15 hours or more each week in public or nonpublic
 60 schools, summer day camps, family day care homes, or those
 61 programs otherwise exempted under s. 402.316. The term does not
 62 include public or nonpublic school personnel who are providing
 63 care during regular school hours, or after hours for activities
 64 related to a school's program for grades kindergarten through
 65 12. A volunteer who assists on an intermittent basis for less
 66 than 40 hours per month is not included in the term "personnel"
 67 for the purposes of screening and training, provided that the
 68 volunteer is under direct and constant supervision by persons
 69 who meet the personnel requirements of s. 402.305(2). Students
 70 who observe and participate in a child care facility as a part
 71 of their required coursework shall not be considered child care
 72 personnel, provided such observation and participation are on an
 73 intermittent basis and the students are under direct and
 74 constant supervision of child care personnel.

75 (4) "Department" means the Department of Children and
 76 Family Services.

77 (5) "Drop-in child care" means child care provided
 78 occasionally in a child care facility in a shopping mall or
 79 business establishment where a child is in care for no more than
 80 a 4-hour period and the parent remains on the premises of the
 81 shopping mall or business establishment at all times. Drop-in
 82 child care arrangements shall meet all requirements for a child
 83 care facility unless specifically exempted.

84 (6) "Evening child care" means child care provided during
 85 the evening hours and may encompass the hours of 6:00 p.m. to
 86 7:00 a.m. to accommodate parents who work evenings and late-
 87 night shifts.

88 (7) "Family day care home" means an occupied residence in
 89 which child care is regularly provided for children from at
 90 least two unrelated families and which receives a payment, fee,
 91 or grant for any of the children receiving care, whether or not
 92 operated for profit. Household children under 13 years of age,
 93 when on the premises of the family day care home or on a field
 94 trip with children enrolled in child care, shall be included in
 95 the overall capacity of the licensed home. A family day care
 96 home shall be allowed to provide care for one of the following
 97 groups of children, which shall include household ~~those~~ children
 98 under 13 years of age ~~who are related to the caregiver:~~

99 (a) A maximum of four children from birth to 12 months of
 100 age.

101 (b) A maximum of three children from birth to 12 months of
 102 age, and other children, for a maximum total of six children.

103 (c) A maximum of six preschool children if all are older
 104 than 12 months of age.

105 (d) A maximum of 10 children if no more than 5 are
 106 preschool age and, of those 5, no more than 2 are under 12
 107 months of age.

108 (8) "Household children" means children who are related by
 109 blood, marriage, or legal adoption to, or who are the legal
 110 wards of, the family day care home operator, the large family
 111 child care home operator, or an adult household member who

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112 | permanently or temporarily resides in the home. Supervision of
 113 | the operator's household children shall be left to the
 114 | discretion of the operator unless those children receive
 115 | subsidized child care to be in the home.

116 | (9)~~(8)~~ "Large family child care home" means an occupied
 117 | residence in which child care is regularly provided for children
 118 | from at least two unrelated families, which receives a payment,
 119 | fee, or grant for any of the children receiving care, whether or
 120 | not operated for profit, and which has at least two full-time
 121 | child care personnel on the premises during the hours of
 122 | operation. One of the two full-time child care personnel must be
 123 | the owner or occupant of the residence. A large family child
 124 | care home must first have operated as a licensed family day care
 125 | home for 2 years, with an operator who has had a child
 126 | development associate credential or its equivalent for 1 year,
 127 | before seeking licensure as a large family child care home.

128 | Household children under 13 years of age, when on the premises
 129 | of the large family child care home or on a field trip with
 130 | children enrolled in child care, shall be included in the
 131 | overall capacity of the licensed home. A large family child care
 132 | home shall be allowed to provide care for one of the following
 133 | groups of children, which shall include household ~~those~~ children
 134 | under 13 years of age ~~who are related to the caregiver:~~

135 | (a) A maximum of 8 children from birth to 24 months of
 136 | age.

137 | (b) A maximum of 12 children, with no more than 4 children
 138 | under 24 months of age.

139 (10)~~(9)~~ "Indoor recreational facility" means an indoor
 140 commercial facility which is established for the primary purpose
 141 of entertaining children in a planned fitness environment
 142 through equipment, games, and activities in conjunction with
 143 food service and which provides child care for a particular
 144 child no more than 4 hours on any one day. An indoor
 145 recreational facility must be licensed as a child care facility
 146 under s. 402.305, but is exempt from the minimum outdoor-square-
 147 footage-per-child requirement specified in that section, if the
 148 indoor recreational facility has, at a minimum, 3,000 square
 149 feet of usable indoor floor space.

150 (11)~~(10)~~ "Local licensing agency" means any agency or
 151 individual designated by the county to license child care
 152 facilities.

153 (12)~~(11)~~ "Operator" means any onsite person ultimately
 154 responsible for the overall operation of a child care facility,
 155 whether or not he or she is the owner or administrator of such
 156 facility.

157 (13)~~(12)~~ "Owner" means the person who is licensed to
 158 operate the child care facility.

159 (14)~~(13)~~ "Screening" means the act of assessing the
 160 background of child care personnel and volunteers and includes,
 161 but is not limited to, employment history checks, local criminal
 162 records checks through local law enforcement agencies,
 163 fingerprinting for all purposes and checks in this subsection,
 164 statewide criminal records checks through the Department of Law
 165 Enforcement, and federal criminal records checks through the
 166 Federal Bureau of Investigation.

167 ~~(15)~~~~(14)~~ "Secretary" means the Secretary of Children and
 168 Family Services.

169 ~~(16)~~~~(15)~~ "Substantial compliance" means that level of
 170 adherence which is sufficient to safeguard the health, safety,
 171 and well-being of all children under care. Substantial
 172 compliance is greater than minimal adherence but not to the
 173 level of absolute adherence. Where a violation or variation is
 174 identified as the type which impacts, or can be reasonably
 175 expected within 90 days to impact, the health, safety, or well-
 176 being of a child, there is no substantial compliance.

177 ~~(17)~~~~(16)~~ "Weekend child care" means child care provided
 178 between the hours of 6 p.m. on Friday and 6 a.m. on Monday.

179 Section 2. Section 402.318, Florida Statutes, is amended
 180 to read:

181 402.318 Advertisement.—No person, as defined in s.
 182 1.01(3), shall advertise or publish an advertisement for a child
 183 care facility, family day care home, or large family child care
 184 home without including within such advertisement the state or
 185 local agency license number or registration number of such
 186 facility or home. Violation of this section is a misdemeanor of
 187 the first degree, punishable as provided in s. 775.082 or s.
 188 775.083.

189 Section 3. This act shall take effect July 1, 2010.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 871

Family Builders Program

SPONSOR(S): Renuart

TIED BILLS:

IDEN./SIM. BILLS: SB 2258

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Health & Family Services Policy Council		Guzzo <i>TG</i>	Gormley <i>AG</i>
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

The bill repeals ss.39.311-39.318, F.S., relating to the Family Builders program. Enacted in 1990, the Family Builders program provided family preservation services to dependent children and their families through the Department of Children and Families ("DCF"). In 1998, the Legislature directed DCF to begin the process of privatizing Florida's child welfare services, including family preservation, to community-based entities known as lead agencies. By 2005, DCF replaced the Family Builders program with community-based care and all funding for the Family Builders program was discontinued.

The bill does not appear to have a fiscal impact on state government.

House Bill 871 provides an effective date of July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Creation of the Family Builders Program

In 1990, the Legislature created the Family Builders Program¹ within the Department of Children and Families ("DCF") to provide family preservation services to dependent children and their families. Pursuant to the program, DCF delivered services designed to allow dependent children to stay with their families instead of entering or remaining in out-of-home care.² To implement the program, DCF contracted with 28 nonprofit community agencies throughout the state to provide a set of short-term, intensive, in-home crisis intervention services to teach skills and provide support to achieve long-term changes within at-risk families.³ The agencies provided clinical services such as comprehensive assessments, family therapy, counseling, and parenting and crisis training; as well as support services, including financial assistance, homemaker and childcare services, food, and help accessing community resources.⁴

Outsourcing of Child Protective Services

In 1998, the Legislature directed DCF to begin the process of outsourcing Florida's child welfare services, including family preservation, to community-based entities known as lead agencies.⁵ The result was a redesigned state child welfare system through the gradual transition to community-based entities with more control over the design and delivery of services previously rendered by programs such as Family Builders.⁶ By April 2005, DCF outsourced child protective services statewide and eliminated contracts for the Family Builders program.⁷

¹ ss. 39.311-39.318, F.S. (created by s. 66, Chapter 90-306, Laws of Florida).

² s. 39.311

³ *Locally-Focused Community-Based Care Replaced the Family Builders Program*; Memorandum from the Office of Program Policy Analysis and Governmental Accountability (May 22, 2009).

⁴ *Id.* at 1.

⁵ *Id.* See also s. 409.1671, F.S. (created by s. 1, Chapter 98-180, Laws of Florida).

⁶ *Id.*

⁷ *Id.*

Effects of the Bill

House Bill 871 repeals ss. 39.311-39.318, F.S., related to the Family Builders Program. The repeal of these statutory sections will not affect current operations at DCF or lead agencies, nor will it affect funding to existing programs.

B. SECTION DIRECTORY:

Section 1: Repealing ss. 39.311 – 39.318, F.S., relating to the Family Builders program.

Section 2: Provides an effective date of July 1, 2010.

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:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, or 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/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

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1 A bill to be entitled
 2 An act relating to the Family Builders Program; repealing
 3 ss. 39.311-39.318, F.S., relating to the Family Builders
 4 Program, to terminate the program; amending ss. 39.0121
 5 and 39.301, F.S.; deleting references to conform;
 6 providing an effective date.

7

8 Be It Enacted by the Legislature of the State of Florida:

9

10 Section 1. Sections 39.311, 39.312, 39.313, 39.314,
 11 39.315, 39.316, 39.317, and 39.318, Florida Statutes, are
 12 repealed.

13 Section 2. Subsection (10) of section 39.0121, Florida
 14 Statutes, is amended to read:

15 39.0121 Specific rulemaking authority.—Pursuant to the
 16 requirements of s. 120.536, the department is specifically
 17 authorized to adopt, amend, and repeal administrative rules
 18 which implement or interpret law or policy, or describe the
 19 procedure and practice requirements necessary to implement this
 20 chapter, including, but not limited to, the following:

21 (10) ~~The Family Builders Program, the Intensive Crisis~~
 22 ~~Counseling Program,~~ and any other early intervention programs
 23 and kinship care assistance programs.

24 Section 3. Paragraph (a) of subsection (15) of section
 25 39.301, Florida Statutes, is amended to read:

26 39.301 Initiation of protective investigations.—

27 (15) (a) If the department or its agent determines that a
 28 child requires immediate or long-term protection through:

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29 1. Medical or other health care; or
30 2. Homemaker care, day care, protective supervision, or
31 other services to stabilize the home environment, including
32 intensive family preservation services through ~~the Family~~
33 ~~Builders Program~~ or the Intensive Crisis Counseling Program, or
34 both,
35
36 such services shall first be offered for voluntary acceptance
37 unless there are high-risk factors that may impact the ability
38 of the parents or legal custodians to exercise judgment. Such
39 factors may include the parents' or legal custodians' young age
40 or history of substance abuse or domestic violence.

41 Section 4. This act shall take effect July 1, 2010.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 883 Standards for Compressed Air

SPONSOR(S): Bovo, and others

TIED BILLS: IDEN./SIM. BILLS:

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Health & Family Services Policy Council		Holt <i>JA</i>	Gormley <i>CS</i>
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

The bill repeals section 381.895, F.S., which requires the Department of Health ("DOH") to set standards for compressed air, requires rule making, requires testing of compressed air by providers, and reporting of test results to DOH. Florida is the only state that has a law governing the regulation of compressed air standards in recreational sport diving.

According to professional dive organizations, repealing this provision in Florida will not have an impact on the quality of compressed air. Currently, dive organizations are required to monitor air quality to maintain certification or membership in recreational dive associations. These private associations also require consumers to have their tanks inspected before receiving compressed air refills.

Repealing this provision will not affect the funding to any existing programs.

The bill appears to have no fiscal impact on state or local government.

The bill takes effect July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The bill repeals section 381.895, F.S., which requires the Department of Health ("DOH") to set standards for compressed air, requires rule making, requires testing of compressed air by providers, and reporting of test results to the department. Repealing this provision will not affect the funding to any existing programs.

Current Situation

In 1999, section 381.895, F.S., was enacted and requires DOH to establish by rule the maximum allowable levels for contaminants in compressed air used for recreational sport diving.¹ These standards must take into consideration the levels of contaminants allowed by the Grade "E" Recreational Diving Standards of the Compressed Gas Association.²

Moreover, section 381.895(3), F.S., requires any compressed air provider receiving compensation for providing compressed air for recreational sport diving to have the air tested quarterly by specified accredited laboratories.³ In addition, the compressed air provider must provide DOH a copy of the quarterly test result and DOH is required to maintain a record of all results.⁴ The compressed air provider must post a certificate certifying that the compressed air meets the standards for contaminate levels.⁵ The certificate must be posted in conspicuous location where it can readily be seen by any person purchasing air.⁶

It is a second degree misdemeanor⁷ if:

- A compressed air provider does not receive a valid certificate that certifies that the compressed air meets the standards for contaminate levels established by DOH; and
- The certificate is not posted in a conspicuous location.⁸

¹ This includes any compressed air that may be provided as part of a dive package of equipment rental, or dive boat charter.

² s. 381.895(1), F.S.

³ The laboratory must be accredited by either the American Industrial Hygiene Association or the American Association for Laboratory Accreditation

⁴ s. 381.895(3),(4), F.S.

⁵ s. 381.895(3), F.S.

⁶ *Id.*

⁷ A person who has been convicted of a second degree misdemeanor may be sentenced for a definite term of imprisonment not exceeding 60 days and a fine of up to \$500. See ss. 775.082(4) and 775.083(1), F.S.

⁸ s. 381.895(5), F.S.

The following entities are exempt from these requirements:

- Individuals who provide compressed air for their own use;
- Any governmental entity that owns its own compressed air source, which is used for work related to the governmental entity; or
- Any foreign registered vessel that uses a compressor to compressed air for its own work-related purposes.⁹

Since enactment, the provision has been amended once to delete the January 1, 2000 implementation date.¹⁰ Florida is the only state that has a law governing the regulation of compressed air standards in recreational diving.¹¹

Currently, DOH maintains a database that contains eleven years of test results from approximately 250 compressed air providers located throughout the state.¹² According to DOH, since 1999 none of the submitted reports¹³ show any evidence of contamination.¹⁴ Additionally, there have been no reports of injury, illness, or death associated with contaminated compressed air.¹⁵

DOH recommended repeal of section 381.895, F.S., in its 2008 legislative package. When the provision was enacted DOH did not receive an appropriation to support the database, enforcement, or rule promulgation.

The dive industry considers it a self-regulating body¹⁶ and has mechanisms in place to ensure customers have quality compressed air.¹⁷ According to professional organizations in the field, repealing this provision in Florida will not have an impact on current business practices. Currently, dive shops are required to monitor air quality to maintain certification or membership in worldwide recreational dive associations. Consumers will still be required to have their tanks inspected by dive shops or instructors, as this is an industry-mandated requirement.¹⁸

There are three major organizations that that engage in recreational diving training and certification: Professional Association of Diving Instructors (PADI), National Association of Underwater Instructors (NAUI), and Scuba Schools International (SSI).¹⁹ According to NAUI, these three organizations represent 90 percent of the recreational diving market for training certification and professional association memberships worldwide. Many recreational dive operations hold certifications and/or memberships with all three organizations. This practice tends to make them more marketable to consumers who are seeking certain types of dive certifications.²⁰

According to the Professional Association of Diving Instructors (PADI)²¹, members of their organization are required to constantly maintain Compressed Gas Association, Grade "E" Recreational Diving Compressed Air Standards. If a member does not meet these standards their membership is revoked. PADI posts a list of all expelled members on-line.²² According to PADI, many dive operations are

⁹ s. 381.895(2), F.S.

¹⁰ Chapter 2002-1, L.O.F.

¹¹ Westlaw search for statutory provisions requiring compressed air standards for recreational diving.

¹² Per email correspondence with DOH staff on file with Health Care Regulation Policy Committee staff (February 24, 2010).

¹³ To-date department has received approximately 9,000 reports, as of February 9, 2010.

¹⁴ Department of Health, Bill Analysis, Economic Statement and Fiscal Note of House Bill 883 (February 9, 2010).

¹⁵ *Id.*

¹⁶ "PADI has worked very hard over the years to keep the scuba diving industry as free from legislation as possible." See Professional Association of Diving Instructors, History of PADI, available at: <http://www.padi.com/scuba/about-padi/PADI-history/default.aspx> (last viewed February 24, 2010).

¹⁷ Department of Health, Bill Analysis, Economic Statement and Fiscal Note of House Bill 883 (February 9, 2010); telephone conversation with staff with the Professional Association of Diving Instructors and the National Association of Underwater Instructors (February 24, 2010).

¹⁸ Per telephone conversation with staff with the Professional Association of Diving Instructors and the National Association of Underwater Instructors (February 24, 2010).

¹⁹ *Id.*

²⁰ *Id.*

²¹ PADI represents approximately 125 dive operations located throughout Florida.

²² Professional Association of Diving Instructors, Quality Management: Consumer Alerts, available at: <http://www.padi.com/scuba/about-padi/quality-management/consumer-alerts/default.aspx> (last viewed February 24, 2010).

starting to utilize a constant air quality monitoring devices, which self-monitor compressed air quality and just need to be calibrated every 90 days.²³

The National Association of Underwater Instructors (NAUI)²⁴, requires certified businesses to provide medical grade compressed air, which NAUI considers a community standard. Dive operations that receive certification from NAUI are required to have their air checked and tested by an accredited nationally recognized lab every two years and the test results must be posted and available for consumers to view. According to NAUI, they have sales representatives that interact with dive shop owners multiple times a year. When NAUI sales men are on site they are required to check compliance with NAUI policies. If a dive operator is not in compliance it will lose their NAUI certification. NAUI posts a list of all suspended and revoked certifications on-line.²⁵

Effects of the Bill

The bill repeals section 381.895, F.S., which requires DOH to set standards for compressed air, requires rule making, requires testing of compressed air by providers, and reporting of test results to DOH. Repealing this provision will not affect funding to any existing programs.

B. SECTION DIRECTORY:

Section 1. Repeals s. 381.895, F.S., relating to standards for compressed air used for recreational diving.

Section 2. Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
Not applicable.
2. Expenditures:
Not applicable.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
Not applicable.
2. Expenditures:
Not applicable.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Compressed air providers submit quarterly test results to DOH by various methods. Some providers have authorized the lab to send the results directly to DOH while others utilize fax or mail.²⁶ As a result, compressed air providers may save on the cost of postage for mailing test results to DOH.

²³ Per email correspondence with Professional Association of Diving Instructors staff on file with Health Care Regulation Policy Committee staff (February 24, 2010).

²⁴ NAUI represents approximately 120 dive operations located throughout Florida.

²⁵ National Association of Underwater Instructors Worldwide, Quality and Ethics: Revoked and Suspended Memberships, *available at*: http://www.naui.org/quality_assurance.aspx (last viewed February 24, 2010).

²⁶ Per email correspondence with department staff on file with Health Care Regulation Policy Committee staff (February 24, 2010).

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No rule-making authority is provided in the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

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1 A bill to be entitled
2 An act relating to standards for compressed air; repealing
3 s. 381.895, F.S., relating to standards for compressed air
4 used for recreational diving; providing an effective date.
5

6 Be It Enacted by the Legislature of the State of Florida:
7

8 Section 1. Section 381.895, Florida Statutes, is repealed.

9 Section 2. This act shall take effect July 1, 2010.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 889

Biomedical and Social Research

SPONSOR(S): Adkins

TIED BILLS:

IDEN./SIM. BILLS: SB 2100

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Health & Family Services Policy Council		Holt <i>[Signature]</i>	Gormley <i>[Signature]</i>
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

This bill deletes outdated or obsolete language relating to the following biomedical research provisions:

- Florida Biomedical and Social Research Act;
- Cervical Cancer Elimination Task Force; and
- The Florida Cancer Council.

The Florida Biomedical and Social Research Act became obsolete when section 381.86, F.S., the Institutional Review Board, was enacted by the Legislature in order to comply with federal law and achieved a similar purpose to that of the Biomedical and Social Research Act. The Cervical Cancer Elimination Task Force statutorily sunset on June 30, 2008. Finally, the Florida Cancer Council was never funded and is currently inactive.

Repealing these provisions will not affect the funding to any existing programs.

The bill appears to have no fiscal impact on state or local government.

The bill takes effect July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The bill repeals the Florida Biomedical and Social Research Act, the Council Cervical Cancer Elimination Task Force, and Florida Cancer Council. Repealing these provisions will not affect the funding to any existing programs.

Current Situation

Florida Biomedical and Social Research Act

Section 381.85, F.S., creates the Florida Biomedical and Social Research Act ("act"). The purpose of the act was to provide a procedure which ensures that any proposed research that is funded by the Department of Health ("DOH") and conducted on humans is reviewed and approved. The act provides DOH rule making authority to adopt ethical standards, procedures and criteria of how to review, approve, and conduct research involving human beings. In addition, the provision creates a nine member Review Council for Biomedical and Social Research ("Review Council") that must review and approve any research conducted on human beings under the purview of DOH.¹

According to DOH, the Review Council no longer exists and section 381.85, F.S. should have been repealed in 2004 when section 381.86, F.S. was enacted² creating the Institutional Review Board (IRB).³ The IRB was created to meet federal requirements⁴ and is responsible for reviewing all biomedical and behavioral research on human subjects which are funded or supported by DOH.⁵ According to DOH, the Biomedical and Social Research Act did not comply with these federal requirements.⁶ Pursuant to federal law,⁷ the State Surgeon General is responsible for determining and appointing membership to the IRB.⁸

The bill repeals section 381.85, F.S., because the purpose is being achieved under another statutory provision that complies with federal law.

¹ s. 381.85(3)-(4), F.S.

² Chapter 2004-350, L.O.F.

³ Department of Health Bill Analysis, Economic Statement and Fiscal Note on House Bill 889 (February 16, 2010).

⁴ 45 C.F.R. part 46; 21 C.F.R. part 50; and 21 C.F.R. part 56 relating to the protection of human subjects.

⁵ s. 381.86(1), F.S.

⁶ *Id.*

⁷ According to federal requirements an IRB must consist of at least five members that have varying backgrounds to promote complete and adequate review of research activities commonly conducted by the institution.

⁸ s. 381.86(2), F.S.

Cervical Cancer Elimination Task Force

In 2004, section 381.912, F.S., was enacted, creating an eleven member Cervical Elimination Task Force ("Task Force"). The purpose of the Task Force is to recommend actions and strategies to reduce costs and burdens associated with cervical cancer in Florida.⁹ The Task Force was required to present interim reports on January 1, 2006 and July 1, 2007 with the final report due on June 30, 2008. The reports were to be sent to the Speaker of the House, Senate President, Governor, the Florida Center for Universal Research to Eradicate Disease (FL CURED), the Florida Cancer Council, and the Florida Public Health Foundation, Inc.¹⁰ The provision further stipulates that, after submitting its final report on or before June 30, 2008, the Task Force is dissolved.¹¹ According to DOH, the Task Force was never implemented because the funding line item was vetoed, and there was no authority to spend general revenue on staff support.¹²

The bill deletes section. 627.7065(5), F.S., because the statute sunset June 30, 2008.

Florida Cancer Council

Section 381.92, F.S., creates the Florida Cancer Council ("Council") within DOH. The purpose of the Council is to make the state a center of excellence for cancer research.¹³ The Council membership is required to consist of representatives from the state's cancer centers, hospitals, and patient groups.¹⁴

Section 381.921, F.S., outlines the mission and duties of the Council. The Council is required to work with the FL CURED to identify, implement, and facilitate endeavors that:

- Encourage the expansion of cancer research capacity in the state;¹⁵
- Improve research and treatment by encouraging greater participation in clinical trials networks;¹⁶ and
- Improve efforts to reduce the incidence of cancer among disparate groups.¹⁷

In addition, the Council is statutorily required to institute a peer-reviewed, competitive process to identify and fund the best proposals that demonstrate the greatest opportunity to attract federal research grants and private financial support.¹⁸ By December 15 of each year the Council is required to submit an annual report to FLCURED, the Governor, and the Legislature which includes policy and funding recommendations regarding cancer research capacity and related issues.¹⁹

According to DOH, the Council is not active. The council was never funded, met only once, and produced only one annual report.²⁰

In 2006, the William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program ("Program"), was created to provide grants for cancer research to further the search for cures for cancer.²¹ Statutory authority for the Program cross references the goals identified in section 381.921, F.S., with regard to improving cancer research and treatment in the state. By doing so, the bill deletes some of the goals of the Program.

The bill repeals s. 381.921, F.S., because the Council is inactive.

⁹ s. 381.912(1), F.S.

¹⁰ *Id.*

¹¹ *Id.*

¹² Department of Health Bill Analysis, Economic Statement and Fiscal Note on House Bill 889 (February 16, 2010).

¹³ s. 381.92(1), F.S.

¹⁴ s. 381.92(2), F.S.

¹⁵ s. 381.921(1), F.S.

¹⁶ s. 381.921(2), F.S.

¹⁷ s. 381.912(3), F.S.

¹⁸ s. 381.921(1)(b-c), F.S.

¹⁹ s. 381.92(3), F.S.

²⁰ Department of Health Bill Analysis, Economic Statement and Fiscal Note on House Bill 889 (February 16, 2010).

²¹ s. 381.922, F.S.

Effects of the Bill

This bill deletes outdated or obsolete language relating to three biomedical research provisions. The Florida Biomedical Research Act is repealed, because the purpose of this provision is being achieved under another statutory provision (i.e., the Institutional Review Board). The Cervical Cancer Elimination Task Force is repealed because the statute sunset June 30, 2008. The Florida Cancer Council and its mission and duties are repealed because the Council is inactive. In addition, the bill deletes cross-references.

Repealing these provisions will not affect the funding to any existing programs.

B. SECTION DIRECTORY:

- Section 1.** Repeals ss. 381.85, 381.912, 381.92, and 381.921, F.S., relating to biomedical and social research, the Cervical Cancer Elimination Task Force, the Florida Cancer Council and the Florida Cancer Council mission and duties.
- Section 2.** Amends s. 381.855, F.S., relating to the Florida Center for Universal Research to Eradicate Disease.
- Section 3.** Amends s. 381.922, F.S., relating to the William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program.
- Section 4.** Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

- 1. Revenues:
Not applicable.
- 2. Expenditures:
Not applicable.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

- 1. Revenues:
Not applicable.
- 2. Expenditures:
Not applicable.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None identified.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have

to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No rule-making authority is provided in the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

By repealing cross references to the Cancer Council mission and goals in s. 381.922, F.S., relating to the Bankhead-Coley Program, without reassigning the goals to the Bankhead-Coley Program, the bill diminishes the mission and goals of the Bankhead-Coley Program.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

Amendment No. 1

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 _____

1 Council/Committee hearing bill: Health & Family Services Policy
2 Council

3 Representative(s) Adkins offered the following:

4
5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 381.0404, Florida Statutes, is
8 repealed.

9 Section 2. Section 381.85, Florida Statutes, is repealed.

10 Section 3. Paragraph (a) of subsection (5) of section
11 381.855, Florida Statutes, is amended to read:

12 381.855 Florida Center for Universal Research to Eradicate
13 Disease.—

14 (5) There is established within the center an advisory
15 council that shall meet at least annually.

16 (a) The council shall consist of one representative from a
17 Florida not-for-profit institution engaged in basic and clinical
18 biomedical research and education which receives more than \$10
19 million in annual grant funding from the National Institutes of

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 889 (2010)

Amendment No. 1

20 Health, to be appointed by the State Surgeon General from a
21 different institution each term, and one representative from and
22 appointed by each of the following entities:

- 23 1. Enterprise Florida, Inc.
- 24 2. BioFlorida.
- 25 3. The Biomedical Research Advisory Council.
- 26 4. The Florida Medical Foundation.
- 27 5. Pharmaceutical Research and Manufacturers of America.
- 28 ~~6. The Florida Cancer Council.~~
- 29 6.7. The American Cancer Society, Florida Division, Inc.
- 30 7.8. The American Heart Association.
- 31 8.9. The American Lung Association of Florida.
- 32 9.10. The American Diabetes Association, South Coastal

33 Region.

- 34 10.11. The Alzheimer's Association.
- 35 11.12. The Epilepsy Foundation.
- 36 12.13. The National Parkinson Foundation.
- 37 13.14. The Florida Public Health Institute, Inc.
- 38 14.15. The Florida Research Consortium.

39 Section 4. Section 381.912, Florida Statutes, is repealed.

40 Section 5. Section 381.92, Florida Statutes, is repealed.

41 Section 6. Subsections (2) and (5) of section 381.922,
42 Florida Statutes, are amended, and section 381.921, Florida
43 Statutes is transferred to paragraph (a) of subsection (2) of
44 that section and amended, to read:

45 381.922 William G. "Bill" Bankhead, Jr., and David Coley
46 Cancer Research Program.—

Amendment No. 1

47 (2) The program shall provide grants for cancer research
48 to further the search for cures for cancer.

49 (a) Emphasis shall be given to the following goals
50 ~~enumerated in s. 381.921~~, as those goals support the advancement
51 of such cures:-

52 ~~381.921 Florida Cancer Council mission and duties. The~~
53 ~~council, which shall work in concert with the Florida Center for~~
54 ~~Universal Research to Eradicate Disease to ensure that the goals~~
55 ~~of the center are advanced, shall endeavor to dramatically~~
56 ~~improve cancer research and treatment in this state through:-~~

57 1.(1) Efforts to significantly expand cancer research
58 capacity in the state by:

59 a.(a) Identifying ways to attract new research talent and
60 attendant national grant-producing researchers to cancer
61 research facilities in this state;

62 b.(b) Implementing a peer-reviewed, competitive process to
63 identify and fund the best proposals to expand cancer research
64 institutes in this state;

65 c.(c) Funding through available resources for those
66 proposals that demonstrate the greatest opportunity to attract
67 federal research grants and private financial support;

68 d.(d) Encouraging the employment of bioinformatics in
69 order to create a cancer informatics infrastructure that
70 enhances information and resource exchange and integration
71 through researchers working in diverse disciplines, to
72 facilitate the full spectrum of cancer investigations;

Amendment No. 1

73 ~~e.(e)~~ Facilitating the technical coordination, business
74 development, and support of intellectual property as it relates
75 to the advancement of cancer research; and

76 ~~f.(f)~~ Aiding in other multidisciplinary research-support
77 activities as they inure to the advancement of cancer research.

78 ~~2.(2)~~ Efforts to improve both research and treatment
79 through greater participation in clinical trials networks by:

80 ~~a.(a)~~ Identifying ways to increase adult enrollment in
81 cancer clinical trials;

82 ~~b.(b)~~ Supporting public and private professional education
83 programs designed to increase the awareness and knowledge about
84 cancer clinical trials;

85 ~~c.(c)~~ Providing tools to cancer patients and community-
86 based oncologists to aid in the identification of cancer
87 clinical trials available in the state; and

88 ~~d.(d)~~ Creating opportunities for the state's academic
89 cancer centers to collaborate with community-based oncologists
90 in cancer clinical trials networks.

91 ~~3.(3)~~ Efforts to reduce the impact of cancer on disparate
92 groups by:

93 ~~a.(a)~~ Identifying those cancers that disproportionately
94 impact certain demographic groups; and

95 ~~b.(b)~~ Building collaborations designed to reduce health
96 disparities as they relate to cancer.

97 (b) Preference may be given to grant proposals that foster
98 collaborations among institutions, researchers, and community
99 practitioners, as such proposals support the advancement of

Amendment No. 1

100 | cures through basic or applied research, including clinical
101 | trials involving cancer patients and related networks.

102 | (5) Funds appropriated for the William G. "Bill" Bankhead,
103 | Jr., and David Coley Cancer Research Program shall be
104 | distributed pursuant to this section to provide grants to
105 | researchers seeking cures for cancer and cancer-related
106 | illnesses, with emphasis given to the goals enumerated in this
107 | section ~~s. 381.921~~. From the total funds appropriated, an amount
108 | of up to 10 percent may be used for administrative expenses. In
109 | the 2009-2010 fiscal year, 2.5 percent, not to exceed \$25
110 | million, of the revenue deposited into the Health Care Trust
111 | Fund pursuant to s. 215.5602(12)(a) shall be transferred to the
112 | Biomedical Research Trust Fund within the Department of Health
113 | for the William G. "Bill" Bankhead, Jr., and David Coley Cancer
114 | Research Program.

115 | Section 7. This act shall take effect July 1, 2010.

116 |

117 |

118 |

119 | -----

120 | **T I T L E A M E N D M E N T**

121 | Remove the entire title and insert:

122 | An act relating to biomedical and social research; repealing s.
123 | 381.0404, F.S., relating to the Center for Health Technologies;
124 | repealing s. 381.85, F.S., relating to the Florida Biomedical
125 | and Social Research Act; amending s. 381.855, F.S., relating to
126 | the Florida Center for Universal Research to Eradicate Disease;
127 | revising advisory council membership to conform to changes made

COUNCIL/COMMITTEE AMENDMENT

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Amendment No. 1

128 | by the act; repealing s. 381.912, F.S., relating to the Cervical
129 | Cancer Elimination Task Force; repealing s. 381.92, F.S.,
130 | relating to the Florida Cancer Council; transferring and
131 | amending s. 381.921, F.S., relating to the mission and duties of
132 | Florida Cancer Council, to conform to changes made by the act;
133 | amending s. 381.922, F.S., relating to the William G. "Bill"
134 | Bankhead, Jr., and David Coley Cancer Research Program, to
135 | conform to changes made by the act; providing an effective date.

1 A bill to be entitled
 2 An act relating to biomedical and social research;
 3 repealing ss. 381.85, 381.912, 381.92, and 381.921, F.S.,
 4 relating to the Florida Biomedical and Social Research
 5 Act, the Cervical Cancer Elimination Task Force, and the
 6 Florida Cancer Council and the mission and duties of the
 7 council; amending ss. 381.855 and 381.922, F.S.; deleting
 8 provisions and cross-references to conform; providing an
 9 effective date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

12
 13 Section 1. Sections 381.85, 381.912, 381.92, and 381.921,
 14 Florida Statutes, are repealed.

15 Section 2. Paragraph (a) of subsection (5) of section
 16 381.855, Florida Statutes, is amended to read:

17 381.855 Florida Center for Universal Research to Eradicate
 18 Disease.—

19 (5) There is established within the center an advisory
 20 council that shall meet at least annually.

21 (a) The council shall consist of one representative from a
 22 Florida not-for-profit institution engaged in basic and clinical
 23 biomedical research and education which receives more than \$10
 24 million in annual grant funding from the National Institutes of
 25 Health, to be appointed by the State Surgeon General from a
 26 different institution each term, and one representative from and
 27 appointed by each of the following entities:

- 28 1. Enterprise Florida, Inc.

29 2. BioFlorida.
 30 3. The Biomedical Research Advisory Council.
 31 4. The Florida Medical Foundation.
 32 5. Pharmaceutical Research and Manufacturers of America.
 33 ~~6. The Florida Cancer Council.~~
 34 6.7. The American Cancer Society, Florida Division, Inc.
 35 7.8. The American Heart Association.
 36 8.9. The American Lung Association of Florida.
 37 9.10. The American Diabetes Association, South Coastal
 38 Region.
 39 10.11. The Alzheimer's Association.
 40 11.12. The Epilepsy Foundation.
 41 12.13. The National Parkinson Foundation.
 42 13.14. The Florida Public Health Institute, Inc.
 43 14.15. The Florida Research Consortium.
 44 Section 3. Subsections (2) and (5) of section 381.922,
 45 Florida Statutes, are amended to read:
 46 381.922 William G. "Bill" Bankhead, Jr., and David Coley
 47 Cancer Research Program.—
 48 (2) The program shall provide grants for cancer research
 49 to further the search for cures for cancer.
 50 ~~(a) Emphasis shall be given to the goals enumerated in s.~~
 51 ~~381.921, as those goals support the advancement of such cures.~~
 52 ~~(b)~~ Preference may be given to grant proposals that foster
 53 collaborations among institutions, researchers, and community
 54 practitioners, as such proposals support the advancement of
 55 cures through basic or applied research, including clinical
 56 trials involving cancer patients and related networks.

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57 (5) Funds appropriated for the William G. "Bill" Bankhead,
 58 Jr., and David Coley Cancer Research Program shall be
 59 distributed pursuant to this section to provide grants to
 60 researchers seeking cures for cancer and cancer-related
 61 illnesses, ~~with emphasis given to the goals enumerated in s.~~
 62 ~~381.921~~. From the total funds appropriated, an amount of up to
 63 10 percent may be used for administrative expenses. In the 2009-
 64 2010 fiscal year, 2.5 percent, not to exceed \$25 million, of the
 65 revenue deposited into the Health Care Trust Fund pursuant to s.
 66 215.5602(12)(a) shall be transferred to the Biomedical Research
 67 Trust Fund within the Department of Health for the William G.
 68 "Bill" Bankhead, Jr., and David Coley Cancer Research Program.
 69 Section 4. This act shall take effect July 1, 2010.