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# **Committee on Health Innovation**

**Tuesday, February 5, 2008  
9:30 AM - 10:30 AM  
Morris Hall (17 HOB)**

**Marco Rubio  
Speaker**

**Rene Garcia  
Chair**



## *House of Representatives*

### Committee on Health Innovation

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#### AGENDA

February 5, 2008  
9:30 AM - 10:30 AM  
Morris Hall

- I. Opening Remarks by Chair Garcia
  
- II. Consideration of the following bills:  
  
HB 461 – Health Flex Plans by Rep. Patronis  
  
HB 471 – Patient Lifting and Handling Practices by Rep. Patronis
  
- III. Closing Remarks by Chair Garcia
  
- IV. Adjournment



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 461 Health Flex Plans

SPONSOR(S): Patronis

TIED BILLS: IDEN./SIM. BILLS: SB 1022

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Health Innovation</u>	_____	Quinn-Gato <i>JDG</i>	Calamas <i>CC</i>
2) <u>Healthcare Council</u>	_____	_____	_____
3) <u>Policy &amp; Budget Council</u>	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

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SUMMARY ANALYSIS

HB 461 expands health flex plan eligibility from 200 to 300 percent of the federal poverty level. The bill also deletes obsolete eligibility provisions.

The bill extends the program to July 1, 2013. The program is currently set to expire on July 1, 2008.

The bill provides a July 1, 2008 effective date.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Empower Families** - The bill expands the financial eligibility requirements to qualify for health flex plans, thereby providing greater access for working individuals and their families to health insurance.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Current Situation**

In 2002 the Legislature established the Health Flex Plan Program recognizing that a significant portion of Florida residents are unable to afford health insurance coverage.<sup>1</sup> The Health Flex Plan Program was established as a pilot program in an effort to offer basic affordable health care services to low-income uninsured state residents, "by encouraging health insurers, health maintenance organizations, healthcare-provider-sponsored organizations to develop alternative approaches to traditional health insurance, which emphasize coverage for basic and preventative care services."<sup>2</sup> The Agency for Health Care Administration (AHCA) is directed by law to administer the Health Flex Plan Program.<sup>3</sup> In 2004, the Legislature expanded Health Flex plans to all 67 counties.<sup>4</sup> The program is scheduled to sunset July 1, 2008.<sup>5</sup>

Health Flex Plans can be offered by licensed insurers, HMOs, health care providers, local governments, health care districts, or other public or private organizations, and through small employers' business purchasing arrangements sponsored by local government. Currently eligibility to enroll in the Health Flex Plan is limited to individuals who:

- Are residents of this state;
- Are 64 years of age or younger;
- Have family income equal to or less than 200 percent of the federal poverty level (currently \$42,400 for a family of four)<sup>6</sup>;
- Have been uninsured for at least 6 months prior to enrollment;
- Are not covered by a private insurance policy and are not eligible for coverage by a public health care program; and
- Have applied for health coverage through an approved health flex plan and have agreed to make payments pursuant to the plan

s. 408.909(5), F.S.

Health Flex Plans are also available to individuals eligible under a federally approved Medicaid demonstration waiver and who reside in Palm Beach County or Miami-Dade County.<sup>7</sup> According to AHCA, although s. 408.909, F.S. was amended to allow Palm Beach County to develop a Health Flex Plan using

<sup>1</sup> ch. 2002-389, Laws of Florida; s. 408.909(1), F.S.

<sup>2</sup> s. 408.909(1), F.S.

<sup>3</sup> s. 408.909, F.S.

<sup>4</sup> ch. 2004-297, Laws of Florida; s. 408.909(3), F.S.

<sup>5</sup> s. 408.909(10), F.S.

<sup>6</sup> 73 Fed. Reg. 15, 1371-72 (Jan. 23, 2008)

<sup>7</sup> s. 408.909(5)(c)

Medicaid funds, the County opted instead to implement a Health Flex Plan without the use of such funds.<sup>8</sup> Additionally, Miami-Dade County opted to not implement a Health Flex Program.<sup>9</sup>

According to AHCA, as of December 2007, five health flex plans were operational in Florida, covering 2,232 employees.<sup>10</sup> One of the five plans, JaxCare, anticipated ending its pilot with the county on December 13, 2007 and, therefore, ceased accepting new enrollment applications after July 1, 2007.<sup>11</sup> JaxCare has decided to continue its plan until June 30, 2008, when it will then implement a new "Medical Home" program in its place.<sup>12</sup> The Annual Report noted that "JaxCare and business owners consider the 200 percent Federal Poverty Level [under current law] as too restrictive."<sup>13</sup>

For another of the four plans, the Report noted the plan's observation that "[l]ack of state funding to support expansion of benefits, the low income threshold, and the six months waiting period [are] significant barriers to expansion of the program."<sup>14</sup>

### Effect of Proposed Changes

The bill expands the population eligible to purchase health flex plans by raising the income limit to 300 percent of the federal poverty level, which is \$63,600 for a family of four.<sup>15</sup> AHCA anticipates that this change will increase enrollment in existing Health Flex Plans and incentivize other providers to implement a Health Flex program.<sup>16</sup>

The bill removes obsolete eligibility provisions.

The bill extends the program, which expires July 1, 2008, through July 1, 2013.

### C. SECTION DIRECTORY:

**Section 1.** Amends s. 408.909, F.S.; relating to health flex plans.

**Section 2.** Provides an effective date of July 1, 2008.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

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<sup>8</sup> Health Flex Plan Program Annual Report, January 2008, Agency for Healthcare Administration, available at [http://www.fdhc.state.fl.us/MCHQ/Managed\\_Health\\_Care/index.shtml](http://www.fdhc.state.fl.us/MCHQ/Managed_Health_Care/index.shtml); Agency for Health Care Administration 2008 Bill Analysis & Economic Impact Statement.

<sup>9</sup> Agency for Health Care Administration 2008 Bill Analysis & Economic Impact Statement.

<sup>10</sup> *Id.*

<sup>11</sup> Health Flex Plan Program Annual Report, January 2008, Agency for Healthcare Administration, available at [http://www.fdhc.state.fl.us/MCHQ/Managed\\_Health\\_Care/index.shtml](http://www.fdhc.state.fl.us/MCHQ/Managed_Health_Care/index.shtml)

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> See supra, Note 6.

<sup>16</sup> See supra, Note 9.

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:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

In July 2002, the State of Florida created the Health Flex Program (s. 408.909, F.S.) to expand the availability of health options for low-income uninsured state residents emphasizing coverage for basic and preventive health care services. Health Flex Plans provide coverage to Florida residents who otherwise would be without health care coverage. The Health Flex Program is scheduled to end July 1, 2008 unless reauthorized. HB 461 will extend and improve the Health Flex Program allowing low-income uninsured Florida residents continued access to an affordable health coverage option.

#### IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES



1                                   A bill to be entitled  
 2           An act relating to health flex plans; amending s. 408.909,  
 3           F.S.; revising eligibility for enrollment in a health flex  
 4           plan; extending the expiration date of the health flex  
 5           plan program; providing an effective date.

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

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 9           Section 1. Subsections (5) and (10) of section 408.909,  
 10          Florida Statutes, are amended to read:

11           408.909 Health flex plans.--

12           (5) ELIGIBILITY.--Eligibility to enroll in an approved  
 13          health flex plan is limited to residents of this state who:

14           (a) Are 64 years of age or younger;

15           (b) Have a family income equal to or less than 300 ~~200~~  
 16          percent of the federal poverty level;

17           ~~(c) Are eligible under a federally approved Medicaid~~  
 18          ~~demonstration waiver and reside in Palm Beach County or Miami-~~  
 19          ~~Dade County;~~

20           (c) ~~(d)~~ Are not covered by a private insurance policy and  
 21          are not eligible for coverage through a public health insurance  
 22          program, such as Medicare or Medicaid, ~~unless specifically~~  
 23          ~~authorized under paragraph (e),~~ or another public health care  
 24          program, such as Kidcare, and have not been covered at any time  
 25          during the past 6 months; and

26           (d) ~~(e)~~ Have applied for health care coverage through an  
 27          approved health flex plan and have agreed to make any payments

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28 | required for participation, including periodic payments or  
29 | payments due at the time health care services are provided.

30 |       (10) EXPIRATION.--This section expires July 1, 2013 ~~2008~~.

31 |       Section 2. This act shall take effect July 1, 2008.

HB 471

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 471 Patient Lifting and Handling Practices

SPONSOR(S): Patronis and others

TIED BILLS: IDEN./SIM. BILLS: CS/SB 508

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Health Innovation		Quinn-Gato <i>YDG</i>	Calamas <i>CEC</i>
2) Healthcare Council			
3) Policy & Budget Council			
4)			
5)			

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SUMMARY ANALYSIS

House Bill 471 requires hospitals to adopt and implement evidence-based policies for hospital employees that minimize the risk of injury to patients and employees associated with lifting and handling patients.

The bill requires that the policy be developed by either a newly created or existing committee of management and non-management hospital employees, at least half of whom are clinical employees engaged in direct patient care.

The bill requires committees to use data to evaluate the risk of injury and to determine the appropriateness of alternative lifting and handling strategies based on the population of patients served at the hospital and identified hospital-specific risk factors. The bill also lists specific issues committees, at a minimum, must consider in creating policies.

The effective date of the bill is October 1, 2008.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Less Government** – The bill provides for additional regulation of hospitals licensed under chapter 395.

#### B. EFFECT OF PROPOSED CHANGES:

##### Background

Given the variation in size, physical disability, cognitive function, level of cooperation, and fluctuation of condition in patients, patient handling and lifting tasks can be both physically demanding and unpredictable in nature.<sup>1</sup> Patient lifts are often accomplished in awkward positions such as bending or reaching over beds or chairs while a nurse's back is flexed.<sup>2</sup> One study has estimated that the cumulative weight lifted by a nurse in a typical 8-hour shift is equivalent to 1.8 tons.<sup>3</sup>

Nursing, psychiatric, and home health aides are especially susceptible to lifting injuries.<sup>4</sup> In 2006, 9,200 registered nurses suffered a median 6 days away from work due to musculoskeletal disorders, while 27,590 nursing aides, orderlies and attendants suffered a median 5 days away from work.<sup>5</sup>

##### Present Situation

The Agency for Health Care Administration is responsible for the licensure and regulation of health care facilities as authorized in Chapter 395, F.S., Hospitals Licensing and Regulation.

Hospitals licensed under Chapter 395, have requirements for nursing services and functional safety. The administrative rules governing hospitals require that:

- Each hospital develops written standards of nursing practice and related policies and procedures to define and describe the scope and conduct of patient care provided by the nursing staff.<sup>6</sup>
- Each hospital has a hospital safety committee to adopt, implement and monitor a comprehensive, hospital-wide safety program. The safety program is required to adopt written policies and procedures to enhance the safety of the hospital, its personnel and patients.<sup>7</sup>

There are no requirements for a specific committee to oversee safe patient handling and lifting in hospitals.

No construction work, including demolition, of a hospital may be started until written approval has been given by AHCA's Office of Plans and Construction.<sup>8</sup> This includes all construction of new facilities and

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<sup>1</sup> Evidence-based practices for Safe Patient Handling and Movement, Online Journal of Issues in Nursing, Vol. 9, No. 3 (Sept. 2004).

Available online at

<http://nursingworld.org/MainMenuCategories/ANAMarketplace/ANAPeriodicals/OJIN/TableofContents/Volume92004/Number3September30/EvidenceBasedPractices.aspx>; viewed January 28, 2008.

<sup>2</sup> *Id.* (citing Blue, C.L., Preventing back injury among nurses, *Orthopaedic Nursing*, 15, 9-22 (1996); Videman, T., et al., Low back pain in nurses and some loading factors of work, *Spine*, 9(4), 400-404 (1984)).

<sup>3</sup> See Tuohy-Main, K., *Why manual handling should be eliminated for resident and career safety*, *Geriatrics*, 15, 10-14(1997).

<sup>4</sup> Hoskins, Anne B., *Occupational Injuries, Illnesses, and Fatalities among Nursing, Psychiatric, and Home Health Aides, 1995-2004*, June 30, 2006. Available online at <http://www.bls.gov/opub/cwcc/content/sh20060628ar01p1.stm>; viewed January 27, 2008.

<sup>5</sup> Bureau of Labor Statistics, *Nonfatal Occupational Injuries and Illnesses Requiring Days Away From Work, 2006*, (released Nov. 8, 2007). Available online at <http://www.bls.gov/news.release/pdf/osh2.pdf>; viewed January 27, 2008.

<sup>6</sup> Rule 59A-3.2085(5)(d), F.A.C.

<sup>7</sup> Rule 59A-3.277, F.A.C.

<sup>8</sup> Rule 59A-3.080, F.A.C.

any and all additions, modifications or renovations to existing facilities. Any remodeling plans for the purpose of incorporating patient handling and moving equipment would have to be submitted to the Office of Plans and Construction for approval.

According to AHCA, hospitals may have already adopted safe lifting policies and programs through their safety committees.<sup>9</sup> Hospitals are responsible for paying worker's compensation claims and paying for temporary help when staff is unavailable because of injury.<sup>10</sup> AHCA further advises that many hospitals in Florida already have patient lifting equipment.<sup>11</sup>

Several states have recently passed legislation concerning safe patient lifting, including Texas in 2005, and Washington in 2006.<sup>12</sup> Washington provides a tax credit of up to \$1,000 for each acute care available inpatient bed towards the cost of purchasing mechanical lifting devices and other equipment that is primarily used to minimize patient handling by health care providers.<sup>13</sup>

### **Effect of Proposed Legislation**

HB 471 creates s. 381.029, F.S., and requires that hospitals establish and implement an "evidence-based policy" regarding the safe lifting and associated handling of patients by hospital employees so as to minimize the risk of injuries to patients and employees. The bill defines "hospital" as a "health care facility licensed under chapter 395;" however, it does not define the term "evidence-based policy." Facilities that are licensed under chapter 395 include hospitals, ambulatory surgical centers, and mobile surgical facilities.

The bill requires that hospitals' safe lifting policies be developed by a committee composed of an "approximate mix" of management and non-management employees, at least half of whom are clinical employees, including registered nurses, engaged in direct patient care. The committee may be a newly created committee or a hospital committee already in existence. The bill does not define what constitutes an "approximate mix."

In developing the policy, the committee is required to use data to evaluate the risk of injury to patients and employees. The committee must also determine whether alternative strategies for lifting and handling patients are appropriate based upon the population of patients at that hospital and any other identified hospital-specific risks.

In making that determination, the committee must consider, at a minimum:

- Using mechanical lifting devices or other engineering controls that minimize the need for employees to manually lift and handle patients;
- Using teams of personnel to lift and handle patients;
- Providing training in safe lifting and handling practices for direct-care employees;
- Incorporating physical space and construction design for mechanical lifting devices in architectural plans for construction or renovation of the hospital;
- Developing an ongoing evaluation process to determine the effectiveness of the policy.

The bill creates a new section of law in Chapter 381, F.S. However, chapter 395 delegates to AHCA the authority to license and regulate hospitals pursuant to Part II of chapter 408, F.S. and part I of

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<sup>9</sup> AHCA 2008 Bill Analysis & Economic Impact Statement, SB 508.

<sup>10</sup> Pursuant to s. 440.09(5), F.S., a 25 percent reduction in workers' compensation benefits is allowed if an employee knowingly refuses to use a safety appliance and the employee knew he/she was required to use the safety appliance; an employee knowingly refuses to follow a safety rule if the safety rule is in statute or in an administrative rule of the Department of Financial Services and the employee knew about the safety rule; or an employee knowingly refuses to use a safety appliance provided by the employer.

<sup>11</sup> See *supra* note 9.

<sup>12</sup> Tex. Code Ann. §256.002; Wash. Rev. Code Ann. §70.41.390.

<sup>13</sup> Washington State Nurses Association *Questions and Answers on Safe Patient Handling Legislation*. Available online at <http://www.wsna.org/legal/patienthandling/faq.asp>; viewed January 27, 2008.

chapter 395. The bill does not provide for any regulation or oversight by AHCA should a hospital fail to comply, and no penalty has been established in the bill for non-compliance.

The effective date of the bill is October 1, 2008.

C. SECTION DIRECTORY:

**Section 1.** Creates s. 381.029, F.S.; provides definitions; requires hospitals to adopt a policy related to patient lifting and handling.

**Section 2.** Provides effective date of October 1, 2008.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments below.

**AHCA's FISCAL FROM ANALYSIS**

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

For hospitals currently without safe patient handling policies, the bill may result in a decrease in the number of injuries suffered by nurses, when engaged in lifting or handling patients, and by patients, who will gain additional protections against avoidable injuries. Nurses will miss fewer days of work, resulting in an increase in productivity and continuity of patient care.

Hospitals may need to acquire patient handling and moving equipment if the requirement for such is included in the policy developed by their respective committees and the hospitals do not already have the necessary equipment on site. Acquisition of new equipment, as necessary, by hospitals may also result in the need for architectural plans for and the renovation of the hospital, which requires approval from AHCA's Office of Plans and Construction. Hospitals may also incur additional expenses associated with training employees regarding their respective patient lifting policies.

D. FISCAL COMMENTS:

The bill implies that there may be complaints related to safe lifting practices. It is difficult to determine the exact impact on AHCA due to the fact that patients, families, and staff can already file a hospital complaint related to safe lifting practices under nursing services. Also, no penalty has been established

in the bill for non-compliance. Hospitals may decide to remodel in order to incorporate lifting equipment. The plans and the remodeling would require reviews and surveys by the Agency. It is difficult to determine the exact impact on AHCA because many hospitals already have some patient lifting equipment, the percentage of beds that would be required to have lifting equipment has not been established in this bill, and there are remodeling limitations in some hospitals such as the presence of asbestos in ceilings.

### 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:

The bill creates in chapter 381 new requirements for hospitals licensed under chapter 395. The bill does not provide for any regulation or oversight by AHCA should a hospital fail to comply, and no penalty has been established in the bill for non-compliance.

The bill at lines 15-16 defines "hospital" as a "health care facility licensed under chapter 395." Facilities that are licensed under chapter 395 include hospitals, ambulatory surgical centers, and mobile surgical facilities.

At lines 17-20, the bill directs hospitals to establish an "evidence-based" policy regarding patient lifting and handling; however, the term "evidence-based" is not defined. Additionally, at lines 20-24, the bill requires committees established by hospitals to be an "appropriate mix" of management and non-management employees, but does not clarify what would be considered an "appropriate mix."

#### D. STATEMENT OF THE SPONSOR

This bill is endorsed by the Florida Hospital Association (FHA), the Florida Nurses Association (FNA), the Service Employees International Union (SEIU) and the Florida Organizations of Nurse Executives (FONE). Each of these organizations support this legislation which will promote a safe environment for the delivery of patient care in our hospitals.

### IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES



HB 471

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1                                   A bill to be entitled  
 2           An act relating to patient lifting and handling practices;  
 3           creating s. 381.029, F.S.; providing a definition;  
 4           requiring hospitals to establish a policy concerning the  
 5           lifting and handling of patients by hospital employees;  
 6           establishing a committee to develop the policy; providing  
 7           for membership of the committee; requiring continuing  
 8           evaluation of the policy; providing an effective date.

9  
 10   Be It Enacted by the Legislature of the State of Florida:

11  
 12           Section 1.   Section 381.029, Florida Statutes, is created  
 13   to read:

14           381.029 Patient lifting and handling practices.--

15           (1) As used in this section, the term "hospital" means a  
 16   health care facility licensed under chapter 395.

17           (2) A hospital shall establish an evidence-based policy  
 18   regarding the safe lifting and associated handling of patients  
 19   by hospital employees that minimizes the risk of injuries to  
 20   patients and employees. The policy shall be developed by a  
 21   committee composed of an appropriate mix of management and  
 22   nonmanagement employees, at least half of whom are clinical  
 23   employees engaged in direct patient care, including registered  
 24   nurses engaged in direct patient care. The hospital may assign  
 25   the task of developing the policy to a newly created committee  
 26   or to an existing committee.

27           (3) The committee shall:

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28            (a) Use data to evaluate the risk of injury to patients  
 29 and employees.

30            (b) Determine the appropriateness of alternative  
 31 strategies for lifting and handling patients based on the  
 32 population of patients at the hospital and identified hospital-  
 33 specific risk factors. At a minimum, the committee shall  
 34 consider:

35            1. Using mechanical lifting devices or other engineering  
 36 controls that minimize the need to lift and handle the patient  
 37 manually.

38            2. Using teams to lift and handle patients.

39            3. Providing training in safe lifting and handling  
 40 practices for employees engaged in caring for patients.

41            4. Incorporating physical space and construction design  
 42 for mechanical lifting devices in architectural plans for  
 43 construction or renovation of the hospital.

44            (c) Develop an ongoing evaluation process to determine the  
 45 effectiveness of the policy established under this section.

46            Section 2. This act shall take effect October 1, 2008.