

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1795 (PCB HC 03-05) Acute Care Hospitals  
**SPONSOR(S):** Committee on Health Care and Farkas  
**TIED BILLS:** None. **IDEN./SIM. BILLS:** 1568 (i)

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Health Care	16 Y, 4 N	Rawlins	Collins
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

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### SUMMARY ANALYSIS

Currently, a proposal to add hospital beds is subject to full comparative certificate of need (CON) review unless the proposal meets criteria for either of two exemptions. Under s. 408.036(3), F.S., an exemption may be granted for the addition of acute care beds in a number that may not exceed 10 total beds or 10 percent of the hospital's current licensed capacity of acute care beds whichever is greater:

- provided the most recent 12-month occupancy has been at least 80 percent; or
- in a hospital that has experienced high seasonal occupancy within the prior 12-month period; or in a hospital that must respond to emergency circumstances.

The CON review process, pursuant to 408.039, F.S., affords parties that could be substantially affected by the granting of a CON the right to request an administrative hearing. Parties to an administrative hearing have the right to seek judicial review by the District Court of Appeal. Only applicants in the same batching cycle are entitled to a comparative hearing on their applications. Existing health care facilities may initiate or intervene in an administrative hearing upon a showing that an established program will be substantially affected by the issuance of a certificate of need to a competing proposed facility or program within the same district.

Under the Administrative Procedure Act, ch. 120, F.S., the opportunity for a hearing must be afforded when the substantial interests of a party will be determined by an agency. The law defines "party" to mean: specifically named persons whose substantial interests are being determined in the proceeding; any other person who, as a matter of constitutional right, provision of statute, or provision of agency regulation, is entitled to participate in whole or in part in the proceeding, or whose substantial interests will be affected by agency action.

This bill authorizes certain acute care hospitals in high growth counties to add up to 180 additional beds without CON review by the Agency. To be eligible, a hospital must be the sole acute care hospital in the county and be the only acute care hospital within a 10-mile radius of another hospital. A high growth county is one that has experienced at least a 60 percent growth rate for the most recent 10-year period for which data are available as determined by using the most recent edition of the Florida Statistical Abstract. The hospital must provide written notice to the Agency that it qualifies under the subsection prior to the addition of the beds.

Two of the four high-growth counties in the state have no other hospital within 10 miles of the eligible hospital. The two hospitals that would qualify for the bed addition allowable under the provisions of the bill are a 60-bed facility located in Sumter County, and an 81-bed facility located in Flagler County.

The project will not be subject to challenge under s. 408.039, or chapter 120, F.S.

Acute care beds added under this provision will not be included in the inventory of hospital beds used by the Agency in calculating the fixed-bed-need pool for acute care hospitals under the CON program. Exclusion of beds added or authorized under this bill would increase the size of any calculated need for additional acute care beds in the subdistrict where a hospital has taken advantage of the bill's provisions.

The bill takes effect July 1, 2003.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

**STORAGE NAME:** h1795.hc.doc  
**DATE:** April 4, 2003

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |   |                             |   |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government?                | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. Lower taxes?                      | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 3. Expand individual freedom?        | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 5. Empower families?                 | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

#### B. EFFECT OF PROPOSED CHANGES:

##### Certificate-of-Need Regulatory Process

The Certificate-of-Need (CON) regulatory process under chapter 408, F.S., requires that before specified health care services and facilities may be offered to the public they must be approved by the Agency. Section 408.036, F.S., specifies which health care projects are subject to review. Subsection (1) of that section lists the projects that are subject to full comparative review in batching cycles by the Agency against specified criteria. Subsection (2) lists the kinds of projects that can undergo an expedited review. These include: research, education, and training programs; shared services contracts or projects; a transfer of a certificate of need; certain increases in nursing home beds; replacement of a health care facility when the proposed project site is located in the same district and within a 1-mile radius of the replaced facility; and certain conversions of hospital mental health services beds to acute care beds. Subsection (3) lists projects that may be exempt from full comparative review upon request.

Section 408.043, F.S., includes special provisions related to the review of specific CON applications, including need for osteopathic hospitals and hospices, preferences for members of rural health networks and a prohibition of a CON requirement that an applicant be privately accredited.

Currently, a proposal to add hospital beds is subject to full comparative CON review unless the proposal meets criteria for either of two exemptions specified in s. 408.036, F.S. Under s. 408.036(3) (n), F.S., an exemption may be granted for the addition of acute care beds in a number that may not exceed 10 total beds or 10 percent of the hospital's current licensed capacity of acute care beds, provided the most recent 12-month occupancy has been at least 80 percent. Under s. 408.036(3) (o), F.S., an exemption may be granted for the addition of acute care beds in a number that may not exceed 10 total beds or 10 percent of the hospital's current licensed capacity of acute care beds, in a hospital that has experienced high seasonal occupancy within the prior 12-month period or in a hospital that must respond to emergency circumstances.

Under s. 408.039, F.S., the CON review process affords parties that could be substantially affected by the granting of a CON the right to request an administrative hearing. Parties to an administrative hearing have the right to seek judicial review by the District Court of Appeal. Only applicants in the same batching cycle are entitled to a comparative hearing on their applications. Existing health care facilities may initiate or intervene in an administrative hearing upon a showing that an established program will be substantially affected by the issuance of a certificate of need to a competing proposed facility or program within the same district.

Under the Administrative Procedure Act, ch. 120, F.S., the opportunity for a hearing must be afforded when the substantial interests of a party will be determined by an agency. The law defines "party" to mean: specifically named persons whose substantial interests are being determined in the proceeding; any other person who, as a matter of constitutional right, provision of statute, or provision of agency regulation, is entitled to participate in whole or in part in the proceeding, or whose substantial interests will be affected by agency action.

As part of its responsibility to determine the future need for any additional acute care hospital beds, the Agency maintains inventories of all currently licensed hospital beds and any additional beds that have received approval. A total future bed need is calculated first; the existing licensed and approved beds are then subtracted from the total; and the result would be any additional beds needed beyond those already existing or approved.

### **Florida's Population**

Florida's population increased by 23.2 percent during the decade 1991-2001. Certain counties experienced particularly high growth, with four counties - Collier, Flagler, Sumter, and Wakulla - seeing a greater than 60 percent increase in population during the decade.

This bill adds a new subsection (5) to s. 408.043, F.S., relating to special CON provisions, to authorize certain acute care hospitals in high growth counties to add up to 180 additional beds without CON review by the Agency. To be eligible, a hospital must be the sole acute care hospital in the county and be the only acute care hospital within a 10-mile radius of another hospital. A high growth county is one that has experienced at least a 60 percent growth rate for the most recent 10-year period for which data are available as determined by using the most recent edition of the Florida Statistical Abstract. The hospital must provide written notice to the Agency that it qualifies under the subsection prior to the addition of the beds.

Two of the four high-growth counties in the state have no other hospital within 10 miles of the eligible hospital. The two hospitals that would qualify for the bed addition allowable under the provisions of the bill are a 60-bed facility located in Sumter County, and an 81-bed facility located in Flagler County.

The project will not be subject to challenge under s. 408.039, or chapter 120, F.S.

Acute care beds added under this provision will not be included in the inventory of hospital beds used by the Agency in calculating the fixed-bed-need pool for acute care hospitals under the CON program. Exclusion of beds added or authorized under this bill would increase the size of any calculated need for additional acute care beds in the subdistrict where a hospital has taken advantage of the bill's provisions.

The bill takes effect July 1, 2003.

#### **C. SECTION DIRECTORY:**

**Section 1.** Amends s. 408.043, F.S., provides that certain acute care hospitals in high growth counties may add additional beds without the approval of the Agency for Health Care Administration, specifies a requirement to notice the agency of such action.

**Section 2.** Provides for an effective date of July 1, 2003.

## 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:

This bill does not appear to have a fiscal impact on local governments.

#### 2. Expenditures:

This bill does not appear to have a fiscal impact on local governments.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Hospitals that meet the requirements of the bill may add up to 180 additional beds without incurring the cost of applying for, and defending against challenges to a CON.

### D. FISCAL COMMENTS:

This bill eliminates the CON application fee for specified hospitals. The fiscal impact to the state is minimal.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

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

#### 2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES