SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/CS/SB 250

SPONSOR: Appropriations Subcommittee on Health and Human Services; Health, Aging and Long-Term Care Committee, Senator Peaden and others

SUBJECT: Rural Hospitals

DATE: April 10, 2003 REVISED: _____ _____ _____ _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harkey	Wilson	HC	Fav/CS
2.	Peters	Belcher	AHS	Fav/CS
3.			AP	Withdrawn: Fav/CS
4.				
5.				
6.				

I. Summary:

The bill changes the definition of *rural hospital* to provide that a hospital that received funding under the Medicaid disproportionate share/financial assistance program for rural hospitals prior to July 1, 2002, is deemed to have been a rural hospital and will continue to be a rural hospital through June 30, 2012, as long as the hospital continues to meet certain criteria.

The bill permits a rural hospital, or a not-for-profit operator of a hospital, to construct a new hospital located in a county with a population of at least 15,000 but no more than 18,000 and a density of less than 30 persons per square mile, or a replacement facility, without obtaining a certificate of need, provided certain conditions are met.

The bill also permits a statutory rural hospital to contract with the Department of Management Services in order to purchase coverage in the state group health insurance plan for the hospital's employees and family members. Certain provisions of ss. 624.436 – 624.446 related to multiple employer welfare arrangements do not apply. The Department of Management Services is required to request a private letter ruling from the Internal Revenue Service determining whether the inclusion of employees of rural hospitals jeopardizes the qualified tax status of the State Group Insurance Program.

The bill expands the definition of the term "infant delivered", for the purpose of payment of an initial assessment for each infant delivered in a hospital, to exclude infants born in a teaching hospital that have been deemed by the association as being exempt from assessments since fiscal year 1997 to 2001.

This bill amends ss. 395.602, 408.07, and 766.314, F.S., and creates ss. 395.6025 and 395.6063, F.S.

II. Present Situation:

Rural Hospitals
Part III of ch. 395, F.S., governs rural hospitals. A rural hospital is defined as a licensed acute care hospital having 100 or fewer licensed beds and an emergency room which is:

1. The sole provider in a county with a population density no greater than 100 persons per square mile;

2. An acute care hospital in a county with a population density no greater than 100 persons per square mile which is at least 30 minutes of travel time from any other acute care hospital in the same county;

3. A hospital supported by a tax district or subdistrict whose boundaries encompass an area of 100 persons or fewer per square mile;

4. A hospital in a constitutional charter county with a population of over 1 million persons that has imposed a local option health service tax and in an area that was directly impacted by a catastrophic event on August 24, 1992, for which the Governor of Florida declared a state of emergency and which has 120 beds, etc.;

5. A hospital with a service area of fewer than 100 persons per square mile, with service area being defined as the fewest number of zip codes that account for 75 percent of the hospital's discharges for the most recent 5-year period; or

6. A hospital designated as a Critical Access Hospital by the Department of Health.

Population densities must be based upon the most recently completed United States census.

Currently there are twenty-nine (29) hospitals listed as rural hospitals:

Gulf Pines Hospital, Port St. Joe
Fishermen's Hospital, Marathon
Jay Hospital, Jay
South Lake Hospital, Clermont
Shands at Starke, Starke
Hendry Regional Medical Center, Clewiston
Shands at Lake Shore, Lake City
Doctors' Memorial Hospital, Inc., Perry
Trinity Community Hospital, Jasper
Calhoun Liberty Hospital, Blountstown
Doctors Memorial Hospital – Bonifay, Bonifay
Healthmark Regional Medical Center, Defuniak Springs
Gadsden Community Hospital, Quincy

Northwest Florida Community Hospital, Chipley
George E. Weems Memorial Hospital, Apalachicola
Jackson Hospital, Marianna
Mariners Hospital, Tavernier
Desoto Memorial Hospital, Arcadia
Shands at Live Oak, Live Oak
Glades General Hospital, Belle Glade
Campbellton-Graceville Hospital, Graceville
Ed Fraser Memorial Hospital, Macclenny
Florida Hospital Flagler, Palm Coast
Baptist Medical Center – Nassau, Fernandina Beach
Nature Coast Regional Hospital, Williston
Homestead Hospital, Homestead
Madison County Memorial Hospital, Madison
Florida Hospital Wauchula, Wauchula
Ramadan Hand Institute/Lake Butler Hospital, Lake Butler

Rural hospitals are eligible to participate in the rural hospital Medicaid disproportionate share (DSH) and financial assistance programs under s. 409.9116, F.S. These hospitals also receive a rural special Medicaid payment. Rural hospitals' inpatient and outpatient rates are exempt from ceilings.

One of the requirements to be considered a rural hospital calls for meeting specific population criteria. The current language in ss. 395.602(2) and 408.07(42), F.S., reads "Population densities used in this paragraph must be based upon the most recently completed United States census." The most recent United States census data, 2000, is now available. However, the 1998 Legislature charged an advisory group to redefine the definition of rural hospitals. The 1999 Rural Hospital Redefinition Report defined twenty-eight (28) providers who remain classified as rural hospitals. One provider, Shands at Lakeshore, was added in 2000.

Although the criteria to be considered in defining a rural hospital exist in law, there currently is no timetable for evaluating whether hospitals continue to meet the criteria. The Agency for Health Care Administration (AHCA) recommends evaluation every 10 years.

Certificate of Need

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 for Health Care Administration (AHCA). 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 AHCA 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.

As required by Section 15 of Chapter 2000-318, Laws of Florida, a workgroup on CON was established to study issues pertaining to the CON program, including the impact of trends in health care delivery and financing. The group produced a final report in December 2002, which includes a recommendation to create an exemption from CON review for the replacement of a statutory rural hospital within the same district, provided the replacement hospital is within 10 miles of the current hospital and within the current primary service area, defined as the fewest number of zip codes that account for 75 percent of the hospital's inpatient admissions.

State Employee Health Insurance Program
Section 110.123, F.S., gives officers and employees of agencies of the state of Florida the opportunity to receive health insurance and prescription drug coverage through enrollment in a self-insured, preferred provider organization or a health maintenance organization. Under s. 110.1228, F.S., the governing body of a small county or small municipality or the district school board of a small county may apply for participation in the state group health insurance program. This section establishes extensive terms and conditions to which a small county, small municipality or district school board must agree before being authorized to participate in the state group health insurance program. Since the creation of s. 110.1228, F.S., in 2001, no governing body or school board of a small county or governing body of a small municipality has applied for participation in the state employee health insurance program.

III. Effect of Proposed Changes:

The bill amends ss. 395.602 and 408.07, F.S., to change the definition of *rural hospital* to provide that a hospital that received funding under the Medicaid disproportionate share/financial assistance program for rural hospitals prior to July 1, 2002, is deemed to have been a rural hospital and will continue to be a rural hospital through June 30, 2012, provided the hospital continues to have 100 or fewer licensed beds and an emergency room, or is in a constitutional charter county with a population of over 1 million persons that has imposed a local option health service tax and in an area that was directly impacted by a catastrophic event on August 24, 1992, for which the Governor of Florida declared a state of emergency and which has 120 beds (s. 395.602(2)(e), F.S.). The bill provides that an acute care hospital that has not previously been designated as a rural hospital and that meets the criteria shall be granted the designation upon application to AHCA.

The bill creates s. 395.6025, F.S., to permit a rural hospital, or a not-for-profit operator of rural hospitals, to construct a new hospital located in a county with a population of at least 15,000 but no more than 18,000 and a density of less than 30 persons per square mile, or a replacement facility, without obtaining a certificate of need, provided the replacement, or new, facility is located within 10 miles of the current hospital site and within the current primary service area. The bill defines "service area" as the fewest number of zip codes that account for 75 percent of the hospital's discharges for the most recent 5-year period, based on information available from data at the Agency.

The bill creates s. 395.6063, F.S., to permit, effective July 1, 2003, a statutory rural hospital to contract with the Department of Management Services in order to purchase coverage in the state group health insurance plan for the hospital's employees and family members at the same

premium cost as that for retirees and surviving spouses. The hospital is responsible for collecting any required employee contribution, making the employer contribution, and paying an annual administrative fee of not less than $2.61 per enrollee per month. The provisions of ss. 624.436-624.446 do not apply to the state group insurance program for purposes of this section. The Department of Management Services is required to request a private letter ruling from the Internal Revenue Service determining whether the inclusion of employees of rural hospitals in the state group insurance program jeopardizes the qualified tax status of the state group insurance program. The department must request this determination no later than July 31, 2003. Implementation is contingent upon receipt of a favorable ruling by the Internal Revenue Service.

The bill amends s. 766.314, F.S., to expand the definition of the term "infant delivered", for the purposes of payment of an initial assessment for each infant delivered in a hospital, to exclude infants born in a teaching hospital that have been deemed by the association as being exempt from assessments since fiscal year 1997 to 2001.

The bill will take effect July 1, 2003.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Art. I, s. 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

Rural hospitals that elect to participate in the state group health insurance plan would be required to pay an annual administrative fee of not less than $2.61 per enrollee per month.

B. Private Sector Impact:

A privately-owned rural hospital would be eligible for the special funding arrangements available to rural hospitals under DSH and the rural special Medicaid payment.

C. Government Sector Impact:

A preliminary review by AHCA of whether the existing rural hospitals would continue to meet the criteria for designation as a rural hospital using the 2000 Census data revealed that two providers potentially would no longer meet the rural hospital definition. It is highly likely that these two providers would no longer meet the requirements based on population data for the specific zip code areas representing "75 percent of the hospital's discharges for the most recent 5-year period" (s. 395.602(2)(5), F.S.). Both providers are listed as not-for-profit providers. The loss of the rural hospital designation would result in a reduction of Medicaid revenue for both providers as the providers would no longer be exempt from inpatient/outpatient ceilings. If the providers no longer met the definition as a rural hospital they would also be removed from participating in the rural hospital disproportionate share (DSH) and financial assistance programs and the rural special Medicaid payment (SMP) program. The projected total loss for one provider would be $931,298 and the projected total loss for the other provider would be $843,580.

If the two providers did not qualify as "rural hospitals" the appropriated monies for rural DSH and rural SMP would be redistributed among the remaining rural hospitals. If the existing DSH and SMP programs remained at their current levels, the redistribution could result in an increase of up to 6.5 percent for some providers. Therefore, the loss of revenue to the facilities would not necessarily translate into a savings to the State as the funds would be redistributed (assuming total funding at current levels).

If the two providers did not qualify as "rural hospitals", Medicaid would save approximately $448,202 per year in program expenditures by not exempting them from ceilings. A reduction in Medicaid expenditures would also reduce the amount of Federal Title XIX match by approximately $264,081 per year, resulting in a net State general revenue savings of approximately $184,121.

A review by the Department of Management Services indicates an indeterminate impact on revenues and expenditures. The State Employees' Group Health Self-Insurance Trust Fund currently estimates a deficit that could, depending on other factors, create an even greater deficit. Additional resources may be required for DMS administration of the program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The state employee group health insurance program operates in compliance with federal law and provides that employer-paid premiums are not considered constructive compensation subject to tax. The plan includes only tax-supported agencies. The inclusion of non-governmental agencies, especially those organized on a proprietary basis, may jeopardize that status and result in significant penalties to the insured population retroactively or prospectively.

Any new subscribing entity to the state health plan will be governed by its operating parameters and will be assigned a separate risk pool for premium calculation. This premium will be likely close to that charged existing employer-participants. The incidence of payment will vary by employer based on its own personnel policies but the total premium will reflect the very generous benefit features provided.

VIII. Amendments:

None.