

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Health Policy

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BILL: CS/SB 380

INTRODUCER: Health Policy Committee and Senators Bean and Brandes

SUBJECT: Hospitals

DATE: January 8, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Stovall	HP	<b>Fav/CS</b>
2.			CA	
3.			AHS	
4.			AP	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 380 requires a hospital to notify obstetrical physicians at least 120 days before closing its obstetrical department or ceasing to provide obstetrical services.

The bill also repeals s. 383.336, F.S., which designates certain hospitals as “provider hospitals” and requires physicians in those hospitals to follow additional practice parameters when providing cesarean sections paid for by the state. Provider hospitals must also establish a peer review board to review all cesarean sections performed by the hospital and paid for by the state.

**II. Present Situation:**

**Obstetrical Departments in Hospitals**

Hospitals are required to report the services which will be provided by the hospital as a requirement of licensure and these services are listed on the hospital’s license. Hospitals must notify the Agency for Health Care Administration (AHCA) of any change of service that affects information on that hospital’s license by submitting a revised licensure application between 60 and 120 days in advance of the change.<sup>1</sup> The list of services is also used for the AHCA’s

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<sup>1</sup> AHCA bill analysis for SB 380, on file with Health Policy Committee staff. See also ss. 408.806(2)(c) and 395.1041(2), F.S.

inventory of hospital emergency services. According to the AHCA's website, there are currently 139 hospitals in Florida that offer emergency obstetrical services.<sup>2</sup>

### **Provider Hospitals**

Presently s. 383.336, F.S., defines the term "provider hospital" and creates certain requirements for such hospitals. A provider hospital is a hospital in which 30 or more births occur annually that are paid for partly or fully by state funds or federal funds administered by the state.<sup>3</sup> Physicians in such hospitals are required to comply with additional practice parameters<sup>4</sup> designed to reduce the number of unnecessary cesarean sections performed within the hospital. These parameters must be followed by physicians when performing cesarean sections partially or fully paid for by the state. The section also requires provider hospitals to establish a peer review board consisting of obstetric physicians and other persons with credentials to perform cesarean sections within the hospital. The board is required to review, on a monthly basis, all cesarean sections performed within the hospital that were partially or fully funded by the state.

These provisions are not currently implemented and Department of Health (DOH) rules regarding provider hospitals were repealed by sections 9 and 10 of 2012-31, L.O.F.

### **Closure of an Obstetrical Department in Bartow, Florida**

In June of 2007 Bartow Regional Medical Center in Polk County announced to patients and physicians that it would close its obstetrics department at the end of July of the same year.<sup>5</sup> Although many obstetrical physicians could continue to see patients in their offices, they would no longer be able to deliver babies at the hospital.<sup>6</sup> Physicians and the local community protested the short timeframe for ceasing to offer obstetrical services. According to the Florida Medical Association and several physicians who worked at the hospital, the short notice "endangered pregnant women who [were] too close to delivery for obstetricians at other hospitals to want them as patients."<sup>7</sup>

## **III. Effect of Proposed Changes:**

**Section 1** of the bill repeals s. 383.336, F.S., relating to provider hospitals.

**Section 2** of the bill amends s. 395.1051, F.S. to require hospitals to give at least a 120 day advanced notice to each obstetrical physician with clinical privileges at that hospital if the hospital intends to close its obstetrical department or cease providing obstetrical services unless the hospital can demonstrate that it was impossible to do so within this timeframe. The bill also

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<sup>2</sup> Report generated by floridahealthfinder.gov on Dec. 20, 2013. On file with Health Policy Committee staff.

<sup>3</sup> S. 383.336 (1), F.S.

<sup>4</sup> These parameters are established by the Office of the State Surgeon General in consultation with the Board of Medicine and the Florida Obstetric and Gynecologic Society and are required to address, at a minimum, the feasibility of attempting a vaginal delivery, dystocia, fetal distress, and fetal malposition.

<sup>5</sup> *Community Unites Against OB Closure*, The Polk County Democrat, July 12, 2007. Available at <http://ufdc.ufl.edu/UF00028292/00258/1x?vo=12>, last visited on Dec. 20, 2013.

<sup>6</sup> *Bartow Hospital Plan Criticized*, The Ledger, July 11, 2007. Available at <http://www.theledger.com/article/20070711/NEWS/707110433?p=1&tc=pg&tc=ar>. Last visited on Dec. 20, 2013.

<sup>7</sup> Id.

provides that if notice cannot be provided at least 120 days in advance, a hospital must provide notice as soon as practicable.

Although specific penalties are not listed for violating the notification provisions, the AHCA has the authority to fine a health care facility up to \$500 for a non-designated violation.<sup>8</sup> Such non-designated violations include violating any provision of that health care facility's authorizing statute.<sup>9</sup>

**Section 3** of the bill provides an effective date of July 1, 2014.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CS/SB 380 may have a positive fiscal impact for obstetrical physicians who receive this notice to allow them adequate time to ensure that they obtain privileges at another hospital. Advanced notice will also allow the patient to adequately plan for delivery at another location. The bill may have a negative fiscal impact on hospitals that fail to comply due to potential administrative fines.

C. Government Sector Impact:

None.

#### **VI. Technical Deficiencies:**

None.

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<sup>8</sup> A non-designated violation is any violation that is not designated as class I-IV. See s. 408.813(3), F.S.

<sup>9</sup> s. 408.813(3)(b), F.S.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill amends the following sections of the Florida Statutes: 395.1051.

This bill repeals the following sections of the Florida Statutes: 383.336.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Health Policy on January 8, 2014:**

The CS amends SB 380 to repeal s. 383.336, F.S., related to provider hospitals; to delete language granting rulemaking authority to the DOH; and to require a hospital to provide notice as soon as practicable if it is impossible for a hospital to provide 120 days' notice.

- B. **Amendments:**

None.