

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.)

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

BILL: SB 380

INTRODUCER: Senator Bean

SUBJECT: Hospitals

DATE: December 16, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Stovall	HP	Pre-meeting
2.			CA	
3.			AHS	
4.			AP	

I. Summary:

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 requires the Department of Health (DOH) to adopt rules to administer this requirement, including situations in which it is impossible for such hospitals to provide the notice.

II. Present Situation:

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.¹ The list of services is also used for the AHCA's inventory of hospital emergency services. According to the AHCA's website, there are currently 139 hospitals in Florida that offer emergency obstetrical services.²

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.³ Although many obstetrical physicians could continue to see patients in their offices, they would no longer be able to deliver babies at the hospital.⁴ Physicians and the local community protested the short timeframe for ceasing to offer obstetrical services. According to the Florida Medical

¹ 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.

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

³ *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.

⁴ *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.

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.”⁵

III. Effect of Proposed Changes:

The bill requires 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. The bill also requires the DOH to adopt rules to implement these provisions and, specifically, to govern situations in which it is impossible to provide such notice. 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.⁶ Such non-designated violations include violating any provision of that health care facility’s authorizing statute.⁷

Section 1 of the bill amends s. 383.336, F.S., relating to provider 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.⁸

Section 2 of the bill amends s. 395.1051, F.S. to relating to all hospitals.

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.

⁵ Id.

⁶ A non-designated violation is any violation that is not designated as class I-IV. See s. 408.813(3), F.S.

⁷ S. 408.813(3)(b), F.S.

⁸ S. 383.336 (1), F.S.

B. Private Sector Impact:

The bill may have a positive fiscal impact for obstetrical physicians who receive this notice to allow them adequate time to ensure that he or she has 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:

Hospitals operated by the public sector are subject to the same fiscal impacts as those in the private sector. Also, the DOH is tasked with adopting rules that will have a minor indeterminate negative fiscal impact on the DOH.

VI. Technical Deficiencies:

The bill requires the DOH to adopt rules to administer the provisions of the bill. However, it is the AHCA, and not the DOH, that has regulatory authority over hospitals.

VII. Related Issues:

Section 2 of the bill applies the notice requirements created in the bill to all hospitals⁹ while Section 1 of the bill applies the notice requirements only to “provider hospitals.” The language in section 1 duplicates the provisions applied by section 2 and may not be necessary.

Except for the situations due to circumstances beyond the hospital’s control, the notice requirement is self-executing. It is therefore unnecessary to give an agency authority to promulgate rules to implement the notice. Agency rulemaking responsibility could be limited to only situations in which notice cannot be provided 120 days in advance without otherwise affecting the notification requirement.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 383.336 and 395.1051.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

⁹ As defined in s. 395.002(12), F.S.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
