

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 665 Regional Perinatal Intensive Care Centers

**SPONSOR(S):** Health Market Reform Subcommittee, Burton

**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Market Reform Subcommittee	12 Y, 0 N, As CS	Guzzo	Calamas
2) Health Care Appropriations Subcommittee			
3) Health & Human Services Committee			

### SUMMARY ANALYSIS

In 1976, the Legislature created the Regional Perinatal Intensive Care Center (RPICC) program to provide specialized obstetrical services to women with high-risk pregnancies and neonatal intensive care services to critically ill and low birth-weight infants. The RPICC program is administered by the Children's Medical Services (CMS) program in the Department of Health (DOH) and provides a coordinated statewide network of obstetrical and perinatal care for Medicaid-eligible women and their infants.

The RPICC program provides medical care through DOH contracts with hospitals that meet certain criteria for designation as a RPICC. The contracts provide that patients will receive services from the center and that the parents or guardians of patients who participate in the program and who are in compliance with Medicaid eligibility requirements may not be additionally charged for treatment and care. Current law authorizes RPICCs to participate in the Medicaid low-income pool. In addition, Medicaid reimburses physicians at higher rate for services provided in a RPICC.

Currently, there are 11 RPICCs in the state, with the most recent designation being granted in 1994. Current law requires DOH to designate at least one RPICC to serve a geographic area representing each of the 11 regions of the state in which at least 10,000 live births occur per year, but in no case may there be more than 11 RPICCs. The criteria for designation as a RPICC are similar to the licensure requirements for level III neonatal intensive care units; however, due to the cap on the number of RPICCs, a hospital with a level III neonatal intensive care unit who wishes to seek RPICC designation is not authorized to do so. As of January, 2020, there are 37 licensed level III NICUs in Florida.

The bill authorizes DOH to designate two new RPICCs and changes the cap on the total number of RPICCs from 11 to 13. Specifically, the bill authorizes DOH to designate one center in any region or county that does not have a center, and in which at least 7,000 live births occur per year, as measured by DOH.

The bill has a significant, negative fiscal impact to AHCA for the higher Medicaid physician rate at two new RPICCs. The bill has no fiscal impact on local governments.

The bill provides an effective date of July 1, 2020.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

A Regional Perinatal Intensive Care Center (RPICC) is a unit designated by DOH, located within a hospital, legislatively intended to provide a full range of childbirth-related health services to its Medicaid patients.<sup>1</sup> In 1976, prior to the common occurrence of neonatal intensive care units in community hospitals, the Legislature created the RPICC program to provide specialized obstetrical services to women with high-risk pregnancies and neonatal intensive care services to critically ill and low birth-weight infants.<sup>2</sup> The RPICC program is administered by the Children's Medical Services (CMS) program in the Department of Health (DOH) under ss. 383.15-383.19, F.S., and rule 64C-6, F.A.C.

When the RPICC program was created in 1976, neonatal infant mortality rates were on the rise. The neonatal infant mortality rate in Florida has decreased from 13.6 deaths per 1,000 live births in 1974<sup>3</sup>, to 4 deaths per 1,000 live births in 2018<sup>4</sup>.

Participation in the RPICC program is contingent upon DOH designating a hospital that meets certain criteria as a RPICC.<sup>5</sup> The designation agreement provides that patients will receive services from the center and that the parents or guardians of patients who participate in the program and who are in compliance with Medicaid eligibility requirements may not be additionally charged for treatment and care.<sup>6</sup>

Originally, RPICC hospitals could receive additional disproportionate share payments in exchange for this commitment.<sup>7</sup> However, authorization for these payments was repealed in 2012.<sup>8</sup> Currently, RPICCs are authorized to receive supplemental Medicaid payments through the low-income pool program, if they have access to intergovernmental transfers.<sup>9</sup>

In addition, a physician who performs a high-risk Medicaid delivery in a RPICC receives a higher Medicaid reimbursement rate than a physician who performs a high-risk delivery in a non-RPICC hospital for the same services provided to certain pregnant Medicaid recipients and newborns.<sup>10</sup>

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<sup>1</sup> S. 383.16(2), F.S.

<sup>2</sup> Ch. 76-54, Laws of Fla., See also s. 383.15, F.S. The RPICC program was created to ensure access to this specialized hospital care for Medicaid pregnant women; however, the Medicaid program today has other accountability mechanisms to ensure access to this type of care, including network adequacy requirements. See, s. 409.967(2), F.S.

<sup>3</sup> Florida Department of Health, Children's Medical Services, *Regional Perinatal Intensive Care Centers Annual Report FY 2006-07*, at pg. 4.

<sup>4</sup> Florida Department of Health, Bureau of Vital Statistics, FLHealthCHARTS, search data queries for infant death rates, select quick standard reports for neonatal infant death rate per 1,000 live births, available at <http://www.flhealthcharts.com/charts/default.aspx> (last viewed January 6, 2020).

<sup>5</sup> S. 383.18, F.S.

<sup>6</sup> Id. This is also required by federal law, so does not appear to have any substantive impact. In effect, RPICCs agree to do what they would already be obligated to do to receive Medicaid reimbursement for services.

<sup>7</sup> The disproportionate share hospital program, or DSH, is a federal Medicaid supplemental payment program to provide additional funding for hospitals who care for a disproportionate share of Medicaid patients compared to other hospitals. See, Title 42 U.S.C. 1396r-4.

<sup>8</sup> Ch. 91-282, Laws of Fla., repealed in 2012 by HB 5301.

<sup>9</sup> S. 409.908(1)(c), (d), F.S. The low-income pool is a Medicaid supplemental payment program for certain providers to pay for charity care. The program uses local dollars (intergovernmental transfers) as the state Medicaid share to draw down federal dollars for the supplemental payments.

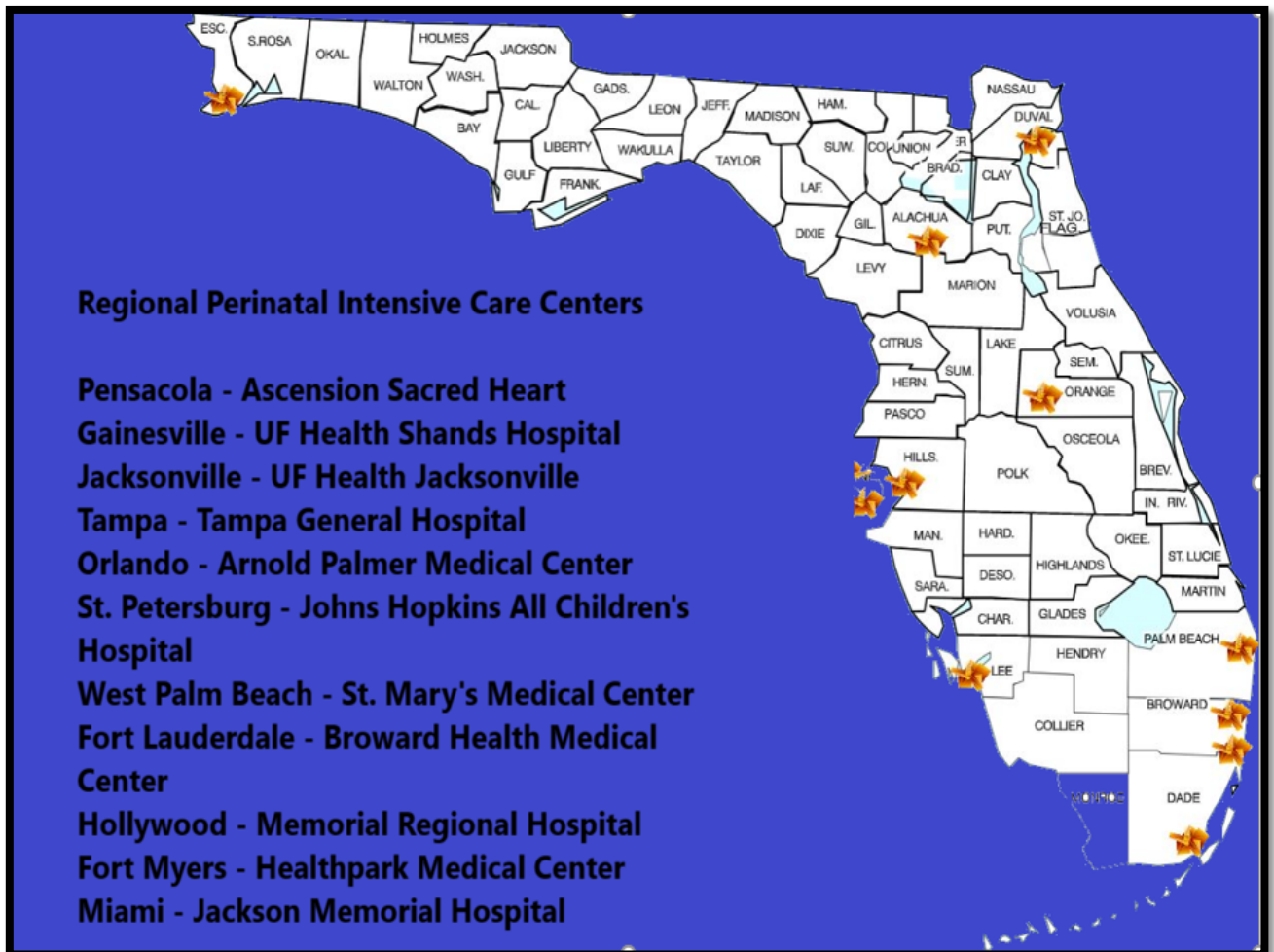
<sup>10</sup> S. 409.908(12)(c), F.S. Reimbursement fees to physicians for providing total obstetrical services to Medicaid recipients, which include prenatal, delivery, and postpartum care, must be at least \$1,500 per delivery for a pregnant woman with low medical risk and at least \$2,000 per delivery for a pregnant woman with high medical risk. However, reimbursement to physicians working in RPICCs, for services to certain pregnant Medicaid recipients with a high medical risk, may be made according to obstetrical care and neonatal care groupings and rates established by AHCA. The highest base fee in the RPICC Neonatal Fee Schedule is \$24,366 for extreme prematurity < 750G and the median base fee is \$7,477.20. The 2019 RPICC fee schedules for neonatal and obstetrical services are available at [http://ahca.myflorida.com/medicaid/review/fee\\_schedules.shtml](http://ahca.myflorida.com/medicaid/review/fee_schedules.shtml) (last viewed January 6, 2020).

In Fiscal Year 2018-2019, Medicaid reimbursed physicians \$5,642,852<sup>11</sup> in claims and managed care encounters under the enhanced RPICC practitioner fee schedules.<sup>12</sup> This total is from 8 of the 11 RPICCs, so the average total per RPICC is \$705,356.50. The totals per RPICC ranged from a low of \$11,215.54 to a high of \$2,273,639.08.<sup>13</sup>

### RPICC Designation

#### *Number of Live Births per Region*

Current law requires DOH to designate at least one RPICC to serve a geographic area representing each of the 11 regions of the state in which at least 10,000 live births occur per year. However, current law caps the total number of RPICCs at 11.<sup>14</sup> Currently, there are 11 RPICCs located around the state. The map below identifies the names and locations of the hospitals currently designated as RPICCs.<sup>15</sup>



The map below identifies the 11 regions of the Statewide Medicaid Managed Care (SMMC) Program.<sup>16</sup>

<sup>11</sup> It should be noted that this amount may not include all payments made to physicians providing services at RPICCs. Physicians are not required to bill using the enhanced fee schedules, and, under the Statewide Medicaid Managed Care Program, may have negotiated other payment arrangements with plans. Any payments made to physicians providing services at RPICCs that were not made under the enhanced fee schedules are not included in the \$5,642,852.

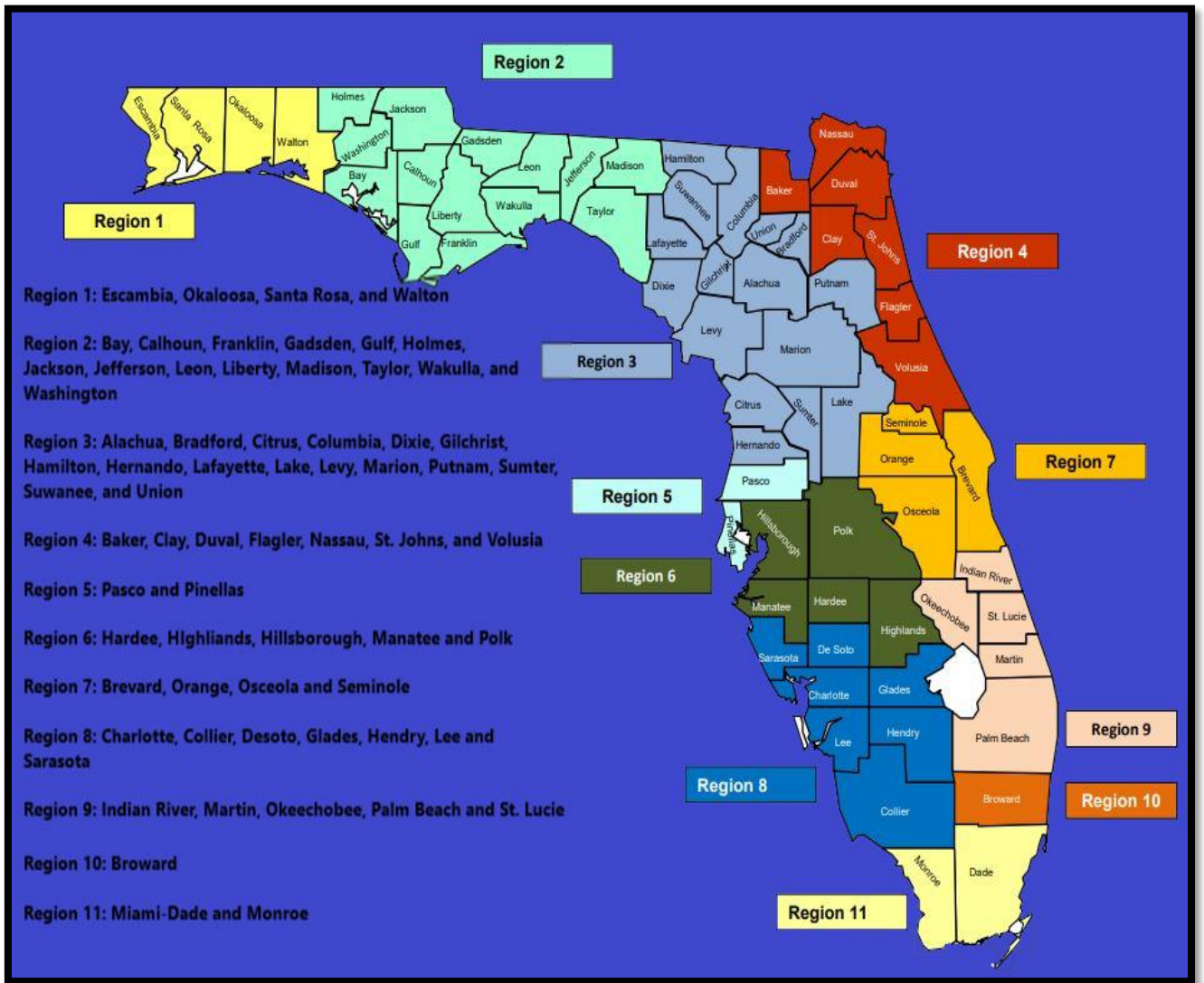
<sup>12</sup> Agency for Health Care Administration, 2020 Agency Summary Bill Analysis & Economic Impact Statement, HB 665, January 10, 2020 (on file with Health Market Reform Subcommittee staff).

<sup>13</sup> Id.

<sup>14</sup> S. 383.19, F.S.

<sup>15</sup> Supra, FN 3.

<sup>16</sup> Florida Agency for Health Care Administration, Statewide Medicaid Managed Care Program Regions Map, available at [https://ahca.myflorida.com/Medicaid/statewide\\_mc/pdf/SMMC\\_Region\\_map.pdf](https://ahca.myflorida.com/Medicaid/statewide_mc/pdf/SMMC_Region_map.pdf) (last viewed January 9, 2020).



Regions 1, 3, 4, 5, 6, 7, 8, 9, and 11 have one RPICC each. Region 10 has two RPICCs. Region 2 is the only region that does not have a RPICC, both because it does not meet the 10,000 annual births threshold and because of the 11-designation cap. However, Region 2 does have a level III neonatal intensive care unit (in Tallahassee).

In 2018, the total number of live births in each region was as follows:<sup>17</sup>

Region	Number of Live Births
Region 1	9,184 <sup>18</sup>
Region 2	7,790 <sup>19</sup>
Region 3	16,252 <sup>20</sup>
Region 4	22,067 <sup>21</sup>
Region 5	13,205 <sup>22</sup>
Region 6	29,595 <sup>23</sup>
Region 7	31,318 <sup>24</sup>
Region 8	14,949 <sup>25</sup>
Region 9	21,290 <sup>26</sup>
Region 10	21,922 <sup>27</sup>
Region 11	31,377 <sup>28</sup>

### Process

Upon review of available information, or upon the request of an individual or institution, the CMS Program office determines eligibility for a new RPICC. The determination is based on whether the hospital is located in one of the 11 regions of the state in which at least 10,000 live births occur per year, and whether patients in the area have access to established RPICC services.<sup>29</sup> Upon the determination of need for a center within a geographic area, the CMS Program office reviews the hospitals within the geographic area to determine which facility should be considered for designation as a RPICC. Then CMS Program office staff and RPICC program consultants conduct an on-site review of the hospital to ascertain the extent to which the hospital's facilities, personnel, and services comply with certain standards. Based on the on-site review, a recommendation is made for appropriate designation as a RPICC and the designation becomes final if approved by the assistant secretary for CMS. Once a hospital receives its RPICC designation, it must meet all standards for facilities, personnel, and services within 3 years of designation as a RPICC.<sup>30</sup>

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<sup>17</sup> Florida Department of Health, Bureau of Vital Statistics, FLHealthCHARTS, search data queries for birth counts, available at <http://www.flhealthcharts.com/charts/default.aspx> (last viewed January 8, 2020).

<sup>18</sup> The number of live births in each county within Region 1, in 2018, were: Escambia-3,733; Santa Rosa-1,954; Okaloosa-2,717; and Walton-780.

<sup>19</sup> The number of live births in each county within Region 2, in 2018, were: Holmes-177; Washington-251; Bay-2,186; Jackson-503; Calhoun-140; Gulf-108; Gadsden-496; Liberty-59; Franklin-81; Leon-2,914; Wakulla-338; Jefferson-111; Madison-184; and Taylor-242.

<sup>20</sup> The number of live births in each county within Region 3, in 2018, were: Hamilton-169; Suwannee-475; Lafayette-56; Dixie-149; Columbia-817; Gilchrist-179; Levy-423; Union-173; Bradford-293; Alachua-2,731; Putnam-821; Marion-3,476; Citrus-1,025; Hernando-1,617; Sumter-479; and Lake-3,369.

<sup>21</sup> The number of live births in each county within Region 4, in 2018, were: Baker-338; Nassau-847; Duval-12,971; Clay-2,182; St. Johns-2,243; Flagler-809; and Volusia-4,859.

<sup>22</sup> The number of live births in each county within Region 5, in 2018, were: Pasco-5,083; and Pinellas-8,122.

<sup>23</sup> The number of live births in each county within Region 6, in 2018, were: Hillsborough-17,127; Polk-7,846; Manatee-3,452; Hardee-338; and Highlands-832.

<sup>24</sup> The number of live births in each county within Region 7, in 2018, were: Seminole-4,661; Orange-16,914; Osceola-4,434; and Brevard-5,309.

<sup>25</sup> The total number of live births in each county within Region 8, in 2018, were: Sarasota-2,876; De Soto-395; Charlotte-1,040; Lee-6,794; Glades-65; Hendry-582; and Collier-3,197.

<sup>26</sup> The total number of live births in each county within Region 9, in 2018, were: Indian River-1,294; Okeechobee-560; St. Lucie-3,121; Martin-1,251; and Palm Beach-15,064.

<sup>27</sup> The total number of live births in each county within Region 10, in 2018, were 21,922 in Broward County.

<sup>28</sup> The total number of live births in each county within Region 11, in 2018, were: Dade-31,017; and Monroe-720.

<sup>29</sup> Rule 64C-6.002, F.A.C.

<sup>30</sup> Id.



## Standards

Section 383.19, F.S., authorizes DOH to adopt rules that specify the standards and care consistent with the standards for level III NICUs set by AHCA for licensure under ch. 395 and rule 59C-1.042, F.A.C., for development and operation of a RPICC. The standards adopted by DOH are in rule 64C-6, F.A.C. Section 383.19, F.S., also provides that failure to comply with the standards established by DOH constitutes grounds for terminating the contract. However, DOH lacks the authority to inspect hospitals for compliance with RPICC standards.

The standards that a hospital must meet for designation as a RPICC are almost identical to the AHCA licensure requirements for level III neonatal intensive care units (NICUs). Level III NICUs are licensed and regulated by AHCA under part I of ch. 395, F.S., and part II of ch. 408, F.S., and rule 59C-1.042, F.A.C. Prior to July 1, 2019, a hospital was required to undergo certificate of need review for the establishment of a level III NICU. Since the certificate of need requirement was repealed, any hospital that meets the AHCA criteria can establish a level III NICU.<sup>31</sup>

The table below compares RPICC and Level III NICU Standards.

### Comparison of RPICC and Level III NICU Standards

Standards	RPICC <sup>32</sup>	Level III NICU <sup>33</sup>
The NICU Must be Directed by a Neonatologist	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Pediatric Surgeon Available at all Times	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> <i>May have a written agreement with a facility for the provision of these services.</i>
24-Hour Neonatologist Coverage	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Pediatric Cardiologist Available at all Times	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
1:4 Respiratory Therapy Technician Staffing Ratio	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Nursing Staff Under Supervision of a Head Nurse	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
1:2 Nurse to Patient Staffing Ratio	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
50% of Nurses Must be RNs	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Nurses who Have Knowledge and Skills in: <ul style="list-style-type: none"> <li>• Cardio-Respiratory Monitoring</li> <li>• Assisting in Ventilation and Administering I.V. Fluids</li> <li>• Pre-Operative and Post-Operative Care</li> <li>• Emergency Treatment of Apnea and Seizures</li> <li>• Management of Neonates being Transported</li> </ul>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Dietician or Nutritionist on Staff	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Blood Pressure Monitoring Device	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Continuous Arterial Oxygenation Measuring Device	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
One Ventilator for Every three Beds	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Laboratory and X-Ray Services	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

The eleventh and final hospital to receive RPICC designation was Lee Memorial Health System in 1994.<sup>34</sup> Since then, there have been no new RPICC designations because of the 11-designation cap, and no existing RPICCs have lost their designation.

<sup>31</sup> However, level III NICUs are not eligible for low-income pool supplemental Medicaid funding (unless they qualify under other criteria), or the higher Medicaid physician reimbursement.

<sup>32</sup> Rule 64C-6, F.A.C.

<sup>33</sup> Rule 59C-1.042, F.A.C.

<sup>34</sup> Florida Department of Health, Children's Medical Services, *Regional Perinatal Intensive Care Centers Handbook*, August 2010, at pg. 6.

## Effect of the Bill

Currently, there are 11 RPICCs in the state. Current law requires DOH to designate at least one RPICC to serve a geographic area representing each of the 11 regions of the state in which at least 10,000 live births occur per year, but in no case may there be more than 11 RPICCs.

The bill authorizes DOH to designate two new RPICCs and changes the cap on the total number of RPICCs from 11 to 13. Specifically, the bill authorizes DOH to designate one center in any region or county that does not have a center, and in which at least 7,000 live births occur per year, as measured by DOH. Region 2 is the only region, and Polk County is the only county that meet the eligibility standards for RPICC designation. As a result, one new RPICC could be designated in Polk County, and one new RPICC could be designated in Region 2. Region 2 consists of the following counties; Leon, Jefferson, Madison, Taylor, Wakulla, Gadsden, Liberty, Franklin, Jackson, Calhoun, Gulf, Holmes, Washington, and Bay.

Finally, the bill provides an effective date of July 1, 2020.

### B. SECTION DIRECTORY:

**Section 1:** Amends s. 383.19, F.S., relating to standards; funding; ineligibility.

**Section 2:** Provides an effective date of July 1, 2020.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

The bill has a significant, negative fiscal impact on AHCA resulting from the higher Medicaid reimbursement rate paid to physicians at an unknown number of newly designated RPICCs.

The average cost of Medicaid reimbursements to physicians in FY 2018-2019 was \$705,356.50 per RPICC. The bill authorizes the designation of two new RPICCs, so the bill will result in an estimated increased annual expenditure of approximately \$1,410,713.

### 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:**

Not applicable. The bill does not appear to affect county or municipal governments.

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

The bill provides sufficient rule-making authority to the Department of Health to implement the bill.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On February 4, 2020, the Health Market Reform Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment authorizes DOH to designate a RPICC in any region or county without one, and in which at least 7,000 live births occur per year, as measured by DOH.

The analysis is drafted to the committee substitute as passed by the Health Market Reform Subcommittee.