

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

The North Broward Hospital District (District) is an independent special tax district with the public purpose of providing for the health care needs of the people of the District. The District was created under ch. 27438 (1951), L.O.F., which was amended by subsequent acts and codified in ch. 2006-347, L.O.F. The District has the authority to appoint and employ a superintendent and such agents and employees as the board deems advisable. The District has the authority to collect ad valorem taxes at a rate not to exceed 2.5 mills and is governed by a seven member Board of Commissioners (Board) appointed by the Governor.

Section 395.3035, F.S.

Section 395.3035, F.S. provides that all meetings of a governing board of a public hospital and all public hospital records shall be open and available to the public. This section also provides that certain records are confidential and exempt from public record such as contracts for health services, trade secrets, negotiations with nongovernmental entities, and portions of a governing board meeting at which such negotiations occur.

Effect of Proposed Changes

This bill replaces the position of superintendent with that of a President/Chief Executive Officer and makes the records of the board subject to s. 395.3035, F.S., regarding the confidentiality of hospital records. This bill makes a finding that it is not in the public interest to have any board member operate in the perceived role of management while simultaneously exercising the charter oversight duties. Therefore, there must be an explicit segregation of duties between the functions of operational management of the district and oversight by the board. A board member that gives direction or interferes with any employee under the supervision of the President/CEO, except for inquiry, will have conducted malfeasance within the meaning of Art. IV., s. 7(a), Fla. Const., which has been interpreted to mean an act by a public officer in his official capacity that is wholly unlawful.¹ The board must adopt a code of conduct and ethics, and any breach of that code shall be malfeasance within the meaning of Art. IV., s. 7(a), Fla. Const. This bill is effective upon becoming law.

C. SECTION DIRECTORY:

Section 1: Amends ch. 2006-347, L.O.F., providing for a President/ Chief Executive Officer and requiring a code of conduct and ethics.

Section 2: Provides a severability clause.

Section 3: Provides an effective date of upon becoming law.

¹See *State ex rel. Hardie v. Coleman*, 115 Fla. 119, 155 So. 129 (1934), criticized on other grounds, *In re Advisory Opinion to the Governor*, 213 So. 2d 716 (Fla. Aug 27, 1968); see also s. 3 of the District charter authorizing the Governor to remove any member of the board for cause.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 25, 2007

WHERE? In the *Sun-Sentinel*, published daily in Broward County.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES