

**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: SB 1026

INTRODUCER: Senator Harrell

SUBJECT: Fees/Advanced Birth Centers

DATE: March 1, 2019

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Looke</u>	<u>Brown</u>	<u>HP</u>	<u>Favorable</u>
2.	_____	_____	<u>CF</u>	_____
3.	_____	_____	<u>RC</u>	_____

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**I. Summary:**

SB 1026 applies certain existing statutory fees to a new type of license for advanced birth centers (ABC) created by SB 448 (2019). Specifically, the bill applies license and inspection fees imposed on birth centers<sup>1</sup> to ABCs and adds ABCs to the list of selected health care facilities that must pay fees to fund local health councils.

The Florida Constitution requires that legislation imposing or authorizing new state taxes or fees<sup>2</sup> and legislation that raises existing state taxes or fees<sup>3</sup> to be passed by a two-thirds vote of the membership of each house of the Legislature, and the tax or fee provisions must be passed in a separate bill.<sup>4</sup> SB 1026 applies existing statutory fees, which are not being increased, to a new type of licensee created by SB 448. As such, the Florida Constitution may require that the fees be passed in a separate bill by a two-thirds vote of the membership of each house of the Legislature.

The provisions of the bill take effect on the same date that SB 448, or other similar legislation, takes effect if such legislation is passed in the same legislative session or extension thereof.

**II. Present Situation:**

**Advanced Birth Centers**

The bill defines an ABC as “a birth center that may perform trial of labor after cesarean deliveries for screened patients who qualify, planned low-risk cesarean deliveries, and

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<sup>1</sup> A birth center is current license type that is established in ss. 383.30-383.332, F.S. A birth center is “any facility, institution, or place, which is not an ambulatory surgical center or a hospital or in a hospital, in which births are planned to occur away from the mother’s usual residence following a normal, uncomplicated, low-risk pregnancy.” See s. 383.302, F.S.

<sup>2</sup> FLA. CONST. art. VII, s. 19(a).

<sup>3</sup> FLA. CONST. art. VII, s. 19(b).

<sup>4</sup> FLA. CONST. art. VII, s. 19(e).

anticipated vaginal deliveries for laboring patients from the beginning of the 37th week of gestation through the end of the 41st week of gestation.” For more information on ABCs and on the specifics of SB 448, see the analysis of SB 448.

### **Licensure and Inspection Fees for Birth Centers**

Section 383.305, F.S., requires birth centers to pay fees for initial licensure. The amount of the fee is established by the Agency for Health Care Administration (AHCA) in Rule 59A-11.003 of the Florida Administrative Code, is \$392.80.

Section 383.324, F.S., requires birth centers to pay an inspection fee to the AHCA. The AHCA conducts two types of inspections of birth centers: licensure inspections and life safety inspections. Birth centers that are accredited by the Accreditation Association for Ambulatory Health Care, the Commission for the Accreditation of Birth Centers, or the Joint Commission are exempt from the requirement to be inspected for licensure. The fees for licensure and life safety inspections are \$250 each.<sup>5</sup>

### **Fees for Local Health Councils**

Local health councils are a network of non-profit agencies that conduct regional health planning and implementation activities.

Each council’s district is designated in s. 408.032, F.S. The boards of directors of these councils are composed of health care providers, purchasers, and non-governmental consumers. Members serve for two years and are eligible for reappointment. Local health councils develop district health plans containing data, analysis, and recommendations that relate to health care status and needs in the community. The recommendations are designed to improve access to health care, reduce disparities in health status, assist state and local governments in the development of sound and rational health care policies, and advocate on behalf of the underserved.

Local health councils study the impact of various initiatives on the health care system, provide assistance to the public and private sectors, and create and disseminate materials designed to increase their communities’ understanding of health care issues.<sup>6</sup>

Section 408.033, F.S., provides that the Legislature intends for the cost of local health councils to be borne by assessments on selected health care facilities.<sup>7</sup> Hospitals, nursing homes, and assisted living facilities pay a tax per bed while all other facilities are assessed an annual fee of \$150.<sup>8</sup>

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<sup>5</sup> See Rule 59A-11.004, F.A.C.

<sup>6</sup> See *Florida’s Local Health Councils* (Dec 19, 2017), available at <http://www.floridahealth.gov/provider-and-partner-resources/health-councils/index.html> (last visited on Feb. 26, 2019).

<sup>7</sup> These health care facilities include abortion clinics, assisted living facilities, ambulatory surgical centers, birth centers, home health agencies, hospices, hospitals, intermediate care facilities for the developmentally disabled, nursing homes, health care clinics, and multiphasic testing centers

<sup>8</sup> Section 408.033(2)(b)1. and 2., F.S.

**III. Effect of Proposed Changes:**

SB 1026 applies certain existing fees to the new Advanced Birth Center license type that is established in SB 448. The bill amends:

- Section 383.305, F.S., to apply current-law licensing fees for birth centers to ABCs;
- Section 383.324, F.S., to apply current-law fees for inspections of birth centers to ABCs; and
- Section 408.033, F.S., to apply a current-law annual fee to fund local health councils to ABCs.

The provisions of the bill take effect on the same date that SB 448, or other similar legislation, takes effect if such legislation is passed in the same legislative session or extension thereof.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

Article VII, s. 19, of the Florida Constitution requires that a new state tax or fee, as well as an increased state tax or fee, must be approved by two-thirds of the membership of each house of the Legislature and must be contained in a separate bill that contains no other subject. Article VII, s. 19(d)(1), of the Florida Constitution defines “fee” to mean “any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.”

SB 1026 applies existing statutory fees, which are not being increased, to a new type of licensee created by SB 448. As such, the Florida Constitution may require that the fees be passed in a separate bill by a two-thirds vote of the membership of each house of the Legislature.

**E. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 383.305, 383.324, and 408.033.

**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.