

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 502

INTRODUCER: Senator Rodriguez

SUBJECT: Certificates of Public Convenience and Necessity

DATE: December 1, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Smith	Brown	HP	Pre-meeting
2.			CA	
3.			RC	

I. Summary:

SB 502 requires a county that has a population exceeding one million to issue a certificate of public convenience and necessity to any applicant that has been operating in Florida for 10 years and has a certificate of public convenience and necessity from at least three other Florida counties. This requirement would not apply to a county operating under a home rule charter.

The bill has no fiscal impact on state revenues or state expenditures.

The bill provides an effective date of July 1, 2022.

II. Present Situation:

Basic and Advanced Life Support Services

Part III of ch. 401, F.S., consisting of ss. 401.2101-401.465, F.S., provides for the regulation of emergency medical services by the Department of Health (DOH). The DOH website reflects that its Emergency Medical Services Section is responsible for the licensure and oversight of over 60,000 emergency medical technicians and paramedics, 270+ advanced and basic life support agencies, and over 4,500 EMS vehicles.¹ The DOH licenses three types of emergency medical services: air ambulance,² basic life support, and advanced life support services.

A basic life support service is an emergency medical service that uses *only* basic life support techniques.³ In contrast, an advanced life support service is an emergency medical transport or

¹ Florida Department of Health, Emergency Medical Services System, *available at* <http://www.floridahealth.gov/licensing-and-regulation/ems-system/index.html> (last visited Nov. 24, 2021).

² Sections 401.23(3)-(4) and 401.251, F.S.

³ Section 401.23(8), F.S.

non-transport service that uses advanced life support techniques.⁴ Similarly, an emergency medical technician (EMT) is certified to perform basic life support,⁵ but a paramedic is certified to perform basic and advanced life support.⁶

“Basic life support” is the assessment or treatment through the use of techniques described in the EMT-Basic National Standard Curriculum or the National EMS Education Standards of the United States Department of Transportation and approved by the DOH. The term includes the administration of oxygen and other techniques that have been approved by the DOH.⁷ When transporting a person who is sick, injured, wounded, incapacitated, or helpless, each basic life support ambulance must be occupied by at least two persons:

- One patient attendant who is a certified EMT, certified paramedic, or licensed physician; and
- One ambulance driver who meets the requirements of s. 401.281, F.S.⁸

“Advanced life support” is the assessment or treatment through the use of techniques such as endotracheal intubation, the administration of drugs or intravenous fluids, telemetry, cardiac monitoring, cardiac defibrillation, and other techniques described in the EMT-Paramedic National Standard Curriculum or the National EMS Education Standards, pursuant to DOH rules.⁹ When transporting a person who is sick, injured, wounded, incapacitated, or helpless, each advanced life support ambulance must be occupied by at least two persons:

- One certified paramedic or licensed physician; and
- One certified EMT, certified paramedic, or licensed physician who also meets the requirements of s. 401.281, F.S., for drivers.¹⁰

The person occupying the advanced life support ambulance with the highest medical certifications is in charge of patient care.¹¹

Section 401.25, F.S., provides requirements for licensure as basic and advanced life support services. Every licensee must possess a valid permit for each vehicle in use.¹²

Certificate of Public Convenience and Necessity Requirement

Section 401.25(2)(d), F.S., requires an applicant for licensure to obtain a certificate of public convenience and necessity from each county in which the applicant will operate. In issuing the certificate of public convenience and necessity, the governing body of each county must consider the recommendations of municipalities within its jurisdiction.

DOH Rule 64J-1.001, Florida Administrative Code, defines a “certificate of public convenience and necessity” as “a written statement or document, issued by the governing board of a county, granting permission for an applicant or licensee to provide services authorized by a license

⁴ Section 401.23(2), F.S.

⁵ Section 401.23(11), F.S.

⁶ Section 401.23(17), F.S.

⁷ Section 401.23(7), F.S.

⁸ Section 401.25(7)(a), F.S.

⁹ Section 401.23(1), F.S.

¹⁰ Section 401.25(7)(b), F.S.

¹¹ *Id.*

¹² Section 401.26, F.S.

issued under ch. 401, part III, F.S., for the benefit of the population of that county or the benefit of the population of some geographic area of that county. No certificate of public need from one county may interfere with the prerogatives asserted by another county regarding certificate of public need.”

An applicant that is an active first responder agency is exempt from the certificate of public necessity requirement for licensure if it meets all of the following requirements:¹³

- Is a faith-based, not-for-profit charitable corporation registered under ch. 617, F.S., which has been responding to medical emergencies in this state for at least 10 consecutive years.
- Is not a parent, subsidiary, or affiliate of, or related to, any for-profit entity.
- Provides basic life support services or advanced life support services solely through at least 50 unpaid licensed emergency medical technician or paramedic volunteers.
- Is not operating for pecuniary profit or financial gain.
- Does not distribute to or inure to the benefit of its directors, members, or officers any part of its assets or income.
- Does not receive any government funding. However, the volunteer ambulance service may receive funding from specialty license plate proceeds.
- Has never had a license denied, revoked, or suspended.
- Provides services free of charge.
- As part of its application for licensure, provides to the DOH a management plan that includes a training program, dispatch protocols, a complaint management system, an accident or injury handling system, a quality assurance program, and proof of adequate insurance coverage to meet state or county insurance requirements, whichever requirements are greater.
- Provides a disclaimer on all written materials that the volunteer ambulance service is not associated with the state’s 911 system.

The exemption above may be granted to no more than four counties.¹⁴

Insurance Requirement

Section 401.25(2)(c), F.S., requires an applicant for licensure as a basic life support service or an advanced life support service to furnish evidence of adequate insurance coverage for claims arising out of injury to or death of persons and damage to the property of others resulting from any cause that the owner of such service would be liable. In lieu of such insurance, the applicant may furnish a certificate of self-insurance evidencing that the applicant has established an adequate self-insurance plan to cover such risks and that the plan has been approved by the Office of Insurance Regulation of the Financial Services Commission.

DOH Rule 64J-1.002, Florida Administrative Code, requires each non-government-operated ground ambulance vehicle to be insured for the sum of at least \$100,000 for injuries to or death of any one person arising out of any one accident; the sum of at least \$300,000 for injuries to or death of more than one person in any one accident; and for the sum of at least \$50,000 for damage to property arising from any one accident. The rule requires government-operated

¹³ Section 401.25(2)(d), F.S

¹⁴ *Id.*

service vehicles to be insured for the sum of at least \$100,000 for any claim or judgment and the sum of \$200,000 total for all claims or judgments arising out of the same occurrence.

Some counties and municipal governments throughout the state have minimum insurance limits within their ordinances that exceed those required by the DOH rule.

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 401.25, F.S., to require a county that has a population exceeding one million to issue a certificate of public convenience and necessity to any applicant that has been operating in Florida for 10 years and has a certificate of public convenience and necessity from at least three other Florida counties. This requirement would not apply to a county operating under a home rule charter adopted pursuant to s. 10, s. 11, or s. 24, Art. VIII of the State Constitution of 1885, as preserved by paragraph 6(e), Art. VIII of the State Constitution of 1968.

Section 2 of the bill provides an effective date of July 1, 2022.

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:

None.

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 section 401.25 of the Florida Statutes.

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.