

By Representative Bloom

1                                   A bill to be entitled  
2           An act relating to certificate of need;  
3           amending s. 408.032, F.S.; revising  
4           definitions; deleting definitions of "capital  
5           expenditure" and "major medical equipment";  
6           amending s. 408.033, F.S.; deleting provisions  
7           relating to the State Health Council and duties  
8           thereof; amending ss. 408.035 and 408.036,  
9           F.S., relating to certificate-of-need review of  
10          health care related projects; revising  
11          applicability; providing for review for  
12          construction of a replacement facility at a  
13          different location; eliminating review for  
14          capital expenditures, acquisitions of major  
15          medical equipment, donations, land acquisitions  
16          for construction of health care facilities and  
17          provider offices, and emergency projects and  
18          unforseen health hazards; exempting from review  
19          certain facility renovations and the  
20          termination of health care services; amending  
21          s. 408.037, F.S.; requiring substantial  
22          compliance with application requirements;  
23          amending ss. 408.038 and 408.0455, F.S.;  
24          correcting and conforming references; amending  
25          s. 408.039, F.S.; revising and conforming the  
26          provisions relating to application process;  
27          requiring substantial compliance with letter of  
28          intent requirements; revising timeframes for  
29          completing an incomplete application and for  
30          granting or denying certificates; amending s.  
31          408.040. F.S.; increasing period of validity of

1 certificates and eliminating extensions;  
2 amending s. 408.042, F.S.; deleting provisions  
3 relating to transfer or sale of certain  
4 facilities and certificates; amending s.  
5 408.043, F.S.; deleting special provisions  
6 relating to osteopathic acute care hospitals  
7 and validity of certain certificates; amending  
8 ss. 189.415, 240.5121, 395.604, 408.702, and  
9 641.60, F.S.; correcting and conforming  
10 references to reflect elimination of the  
11 Statewide Health Council and transfer of duties  
12 from the former Department of Health and  
13 Rehabilitative Services to the Agency for  
14 Health Care Administration; correcting cross  
15 references; repealing ss. 186.003(9) and  
16 186.503(9), F.S., relating to definitions of  
17 "State Health Council"; repealing s.  
18 395.0191(10), F.S., relating to proving certain  
19 nondiscrimination to obtain a certificate of  
20 need; repealing s. 408.0366, F.S., relating to  
21 facilities not requiring certificates of need;  
22 providing an effective date.

23  
24 Be It Enacted by the Legislature of the State of Florida:

25  
26 Section 1. Subsections (1), (4), (15), and (20) of  
27 section 408.032, Florida Statutes, are amended, and a new  
28 subsection (1) is added to said section, to read:

29 408.032 Definitions.--As used in ss. 408.031-408.045,  
30 the term:

31

1           (1) "Agency" means the Agency for Health Care  
2 Administration.

3           ~~(1) "Capital expenditure" means an expenditure,~~  
4 ~~including an expenditure for a construction project undertaken~~  
5 ~~by a health care facility as its own contractor, which, under~~  
6 ~~generally accepted accounting principles, is not properly~~  
7 ~~chargeable as an expense of operation and maintenance; or an~~  
8 ~~expenditure which exceeds the minimum as specified in s.~~  
9 ~~408.036(1)(c), changes the bed capacity of the facility, or~~  
10 ~~substantially changes the services or service area of the~~  
11 ~~health care facility, health service provider, or hospice, and~~  
12 ~~which includes the cost of the studies, surveys, designs,~~  
13 ~~plans, working drawings, specifications, initial financing~~  
14 ~~costs, and other activities essential to acquisition,~~  
15 ~~improvement, expansion, or replacement of the plant and~~  
16 ~~equipment. The agency shall, by rule, adjust the capital~~  
17 ~~expenditure threshold annually using an appropriate inflation~~  
18 ~~index.~~

19           ~~(4) "Department" means the Agency for Health Care~~  
20 ~~Administration.~~

21           ~~(15) "Major medical equipment" means equipment which~~  
22 ~~is used to provide medical and other health services, which~~  
23 ~~has been approved for general usage by the United States Food~~  
24 ~~and Drug Administration for less than 3 years and which costs~~  
25 ~~in excess of \$1 million. The agency shall, by rule, adjust~~  
26 ~~the equipment threshold annually using an appropriate~~  
27 ~~inflation index.~~

28           ~~(20) "Agency" means the department or agency which has~~  
29 ~~responsibility for health planning and health regulation.~~

30           Section 2. Paragraphs (b) and (g) of subsection (1),  
31 subsection (2), paragraphs (a), (b), and (f) of subsection

1 (3), and subsection (4) of section 408.033, Florida Statutes,  
2 are amended to read:

3 408.033 Local and state health planning.--

4 (1) LOCAL HEALTH COUNCILS.--

5 (b) Each local health council may:

6 1. Develop a district or regional area health plan  
7 that is consistent with the objectives and strategies in the  
8 state health plan, but that shall permit each local health  
9 council to develop strategies and set priorities for  
10 implementation based on its unique local health needs. The  
11 district or regional area health plan must contain preferences  
12 for the development of health services and facilities, which  
13 may be considered by the agency in its review of  
14 certificate-of-need applications. The district health plan  
15 shall be submitted to the agency and updated periodically. The  
16 district health plans shall use a uniform format and be  
17 submitted to the agency according to a schedule developed by  
18 the agency in conjunction with ~~the Statewide Health Council~~  
19 ~~and~~ the local health councils. The schedule must provide for  
20 coordination between the development of ~~the state health plan~~  
21 ~~and~~ the district health plans and for the development of  
22 district health plans by major sections over a multiyear  
23 period. The elements of a district plan which are necessary  
24 to the review of certificate-of-need applications for proposed  
25 projects within the district may be adopted by the agency as a  
26 part of its rules.

27 2. Advise the agency on health care issues and  
28 resource allocations.

29 3. Promote public awareness of community health needs,  
30 emphasizing health promotion and cost-effective health service  
31 selection.

- 1           4. Collect data and conduct analyses and studies  
2 related to health care needs of the district, including the  
3 needs of medically indigent persons, and assist the agency and  
4 other state agencies in carrying out data collection  
5 activities that relate to the functions in this subsection.  
6           5. Monitor the onsite construction progress, if any,  
7 of certificate-of-need approved projects and report council  
8 findings to the agency on forms provided by the agency.  
9           6. Advise and assist any regional planning councils  
10 within each district that have elected to address health  
11 issues in their strategic regional policy plans with the  
12 development of the health element of the plans to address the  
13 health goals and policies in the State Comprehensive Plan.  
14           7. Advise and assist local governments within each  
15 district on the development of an optional health plan element  
16 of the comprehensive plan provided in chapter 163, to assure  
17 compatibility with the health goals and policies in the State  
18 Comprehensive Plan and district health plan. To facilitate  
19 the implementation of this section, the local health council  
20 shall annually provide the local governments in its service  
21 area, upon request, with:  
22           a. A copy and appropriate updates of the district  
23 health plan;  
24           b. A report of hospital and nursing home utilization  
25 statistics for facilities within the local government  
26 jurisdiction; and  
27           c. Applicable agency rules and calculated need  
28 methodologies for health facilities and services regulated  
29 under s. 408.034 for the district served by the local health  
30 council.  
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1           8. Monitor and evaluate the adequacy, appropriateness,  
2 and effectiveness, within the district, of local, state,  
3 federal, and private funds distributed to meet the needs of  
4 the medically indigent and other underserved population  
5 groups.

6           9. In conjunction with the Department of Health ~~and~~  
7 ~~Rehabilitative Services and Statewide Health Council~~, plan for  
8 services at the local level for persons infected with the  
9 human immunodeficiency virus.

10          10. Provide technical assistance to encourage and  
11 support activities by providers, purchasers, consumers, and  
12 local, regional, and state agencies in meeting the health care  
13 goals, objectives, and policies adopted by the local health  
14 council.

15          11. Provide the agency with data required by rule for  
16 the review of certificate-of-need applications and the  
17 projection of need for health services and facilities in the  
18 district.

19          (g) Each local health council is authorized to accept  
20 and receive, in furtherance of its health planning functions,  
21 funds, grants, and services from governmental agencies and  
22 from private or civic sources and to perform studies related  
23 to local health planning in exchange for such funds, grants,  
24 or services. Each local health council shall, no later than  
25 January 30 of each year, render an accounting of the receipt  
26 and disbursement of such funds received by it to the agency.  
27 The agency shall consolidate all such reports and submit such  
28 consolidated report to the Legislature no later than March 1  
29 of each year. Funds received by a local health council  
30 pursuant to this paragraph shall not be deemed to be a  
31

1 substitute for, or an offset against, any funding provided  
2 pursuant to subsection (2) ~~(3)~~.

3 ~~(2) STATEWIDE HEALTH COUNCIL. The Statewide Health~~  
4 ~~Council is hereby established as a state-level comprehensive~~  
5 ~~health planning and policy advisory board. For administrative~~  
6 ~~purposes, the council shall be located within the agency. The~~  
7 ~~Statewide Health Council shall be composed of: the State~~  
8 ~~Health Officer; the Deputy Director for Health Policy and Cost~~  
9 ~~Control and the Deputy Director for Health Quality Assurance~~  
10 ~~of the department; the director of the Health Care Board; the~~  
11 ~~Insurance Commissioner or his designee; the Vice Chancellor~~  
12 ~~for Health Affairs of the Board of Regents; three chairmen of~~  
13 ~~regional planning councils, selected by the regional planning~~  
14 ~~councils; five chairmen of local health councils, selected by~~  
15 ~~the local health councils; four members appointed by the~~  
16 ~~Governor, one of whom is a consumer over 60 years of age, one~~  
17 ~~of whom is a representative of organized labor, one of whom is~~  
18 ~~a physician, and one of whom represents the nursing home~~  
19 ~~industry; five members appointed by the President of the~~  
20 ~~Senate, one of whom is a representative of the insurance~~  
21 ~~industry in this state, one of whom is the chief executive~~  
22 ~~officer of a business with more than 300 employees in this~~  
23 ~~state, one of whom represents the hospital industry, one of~~  
24 ~~whom is a primary care physician, and one of whom is a nurse,~~  
25 ~~and five members appointed by the Speaker of the House of~~  
26 ~~Representatives, one of whom is a consumer who represents a~~  
27 ~~minority group in this state, one of whom represents the home~~  
28 ~~health care industry in this state, one of whom is an allied~~  
29 ~~health care professional, one of whom is the chief executive~~  
30 ~~officer of a business with fewer than 25 employees in this~~  
31 ~~state, and one of whom represents a county social services~~

1 ~~program that provides health care services to the indigent.~~  
2 ~~Appointed members of the council shall serve for 2-year terms~~  
3 ~~commencing October 1 of each even-numbered year. The council~~  
4 ~~shall elect a president from among the members who are not~~  
5 ~~state employees. The Statewide Health Council shall:~~  
6       ~~(a) Advise the Governor, the Legislature, and the~~  
7 ~~department on state health policy issues, state and local~~  
8 ~~health planning activities, and state health regulation~~  
9 ~~programs;~~  
10       ~~(b) Prepare a state health plan that specifies~~  
11 ~~subgoals, quantifiable objectives, strategies, and resource~~  
12 ~~requirements to implement the goals and policies of the health~~  
13 ~~element of the State Comprehensive Plan. The plan must assess~~  
14 ~~the health status of residents of this state; evaluate the~~  
15 ~~adequacy, accessibility, and affordability of health services~~  
16 ~~and facilities; assess government-financed programs and~~  
17 ~~private health care insurance coverages; and address other~~  
18 ~~topical local and state health care issues. Within 2 years~~  
19 ~~after the health element of the State Comprehensive Plan is~~  
20 ~~amended, and by July 1 of every 3rd year, if it is not~~  
21 ~~amended, the Statewide Health Council shall submit the state~~  
22 ~~health plan to the Executive Office of the Governor, the~~  
23 ~~secretary of the department, the President of the Senate, and~~  
24 ~~the Speaker of the House of Representatives;~~  
25       ~~(c) Promote public awareness of state health care~~  
26 ~~issues and, in conjunction with the local health councils,~~  
27 ~~conduct public forums throughout the state to solicit the~~  
28 ~~comments and advice of the public on the adequacy,~~  
29 ~~accessibility, and affordability of health care services in~~  
30 ~~this state and other health care issues;~~  
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1           ~~(d) Consult with local health councils, the Department~~  
2 ~~of Insurance, the Department of Health and Rehabilitative~~  
3 ~~Services, and other appropriate public and private entities,~~  
4 ~~including health care industry representatives regarding the~~  
5 ~~development of health policies;~~

6           ~~(e) Serve as a forum for the discussion of local~~  
7 ~~health planning issues of concern to the local health councils~~  
8 ~~and regional planning councils;~~

9           ~~(f) Review district health plans for consistency with~~  
10 ~~the State Comprehensive Plan and the state health plan;~~

11           ~~(g) Review the health components of agency functional~~  
12 ~~plans for consistency with the health element of the State~~  
13 ~~Comprehensive Plan, advise the Executive Office of the~~  
14 ~~Governor regarding inconsistencies, and recommend revisions to~~  
15 ~~agency functional plans to make them consistent with the State~~  
16 ~~Comprehensive Plan;~~

17           ~~(h) Review any strategic regional plans that address~~  
18 ~~health issues for consistency with the health element of the~~  
19 ~~State Comprehensive Plan, advise the Executive Office of the~~  
20 ~~Governor regarding inconsistencies, and recommend revisions to~~  
21 ~~strategic regional policy plans to make them consistent with~~  
22 ~~the State Comprehensive Plan;~~

23           ~~(i) Assist the Department of Community Affairs in the~~  
24 ~~review of local government comprehensive plans to ensure~~  
25 ~~consistency with policy developed in the district health~~  
26 ~~plans;~~

27           ~~(j) With the assistance of the local health councils,~~  
28 ~~conduct public forums and use other means to determine the~~  
29 ~~opinions of health care consumers, providers, payors, and~~  
30 ~~insurers regarding the state's health care goals and policies~~  
31 ~~and develop suggested revisions to the health element of the~~

1 ~~State Comprehensive Plan. The council shall submit the~~  
2 ~~proposed revisions to the health element of the State~~  
3 ~~Comprehensive Plan to the Governor, the President of the~~  
4 ~~Senate, and the Speaker of the House of Representatives by~~  
5 ~~February 1, 1993, and shall widely circulate the proposed~~  
6 ~~revisions to affected parties. The council shall periodically~~  
7 ~~assess the progress made in achieving the goals and policies~~  
8 ~~contained in the health element of the State Comprehensive~~  
9 ~~Plan and report to the department, the Governor, the President~~  
10 ~~of the Senate, and the Speaker of the House of~~  
11 ~~Representatives; and~~

12 ~~(k) Conduct any other functions or studies and~~  
13 ~~analyses falling under the duties listed above.~~

14 (2)~~(3)~~ FUNDING.--

15 (a) The Legislature intends that the cost of local  
16 health councils ~~and the Statewide Health Council~~ be borne by  
17 application fees for certificates of need and by assessments  
18 on selected health care facilities subject to facility  
19 licensure by the Agency for Health Care Administration,  
20 including abortion clinics, assisted living facilities,  
21 ambulatory surgical centers, birthing centers, clinical  
22 laboratories except community nonprofit blood banks, home  
23 health agencies, hospices, hospitals, intermediate care  
24 facilities for the developmentally disabled, nursing homes,  
25 and multiphasic testing centers and by assessments on  
26 organizations subject to certification by the agency pursuant  
27 to chapter 641, part III, including health maintenance  
28 organizations and prepaid health clinics.

29 (b)1. A hospital licensed under chapter 395, a nursing  
30 home licensed under chapter 400, and an assisted living  
31

1 facility licensed under chapter 400 shall be assessed an  
2 annual fee based on number of beds.

3 2. All other facilities and organizations listed in  
4 paragraph (a) shall each be assessed an annual fee of \$150.

5 3. Facilities operated by the Department of Health ~~and~~  
6 ~~Rehabilitative Services~~ or the Department of Corrections and  
7 any hospital which meets the definition of rural hospital  
8 pursuant to s. 395.602 are exempt from the assessment required  
9 in this subsection.

10 (f) The agency shall deposit in the Health Care Trust  
11 Fund all health care facility assessments that are assessed  
12 under this subsection and proceeds from the  
13 certificate-of-need application fees which are sufficient to  
14 maintain the aggregate funding level for the local health  
15 councils ~~and the Statewide Health Council~~ as specified in the  
16 General Appropriations Act. The remaining certificate-of-need  
17 application fees shall be used only for the purpose of  
18 administering the Health Facility and Services Development  
19 Act.

20 (3)(4) DUTIES AND RESPONSIBILITIES OF THE AGENCY  
21 ~~DEPARTMENT~~.--

22 (a) The agency department, in conjunction with ~~the~~  
23 ~~Statewide Health Council~~ and the local health councils, is  
24 responsible for the planning of all health care services in  
25 the state ~~and for assisting the Statewide Health Council in~~  
26 ~~the preparation of the state health plan.~~

27 (b) The agency department shall develop and maintain a  
28 comprehensive health care database for the purpose of health  
29 planning and for certificate-of-need determinations. The  
30 agency department or its contractor is authorized to require  
31 the submission of information from health facilities, health

1 service providers, and licensed health professionals which is  
2 determined by the agency department, through rule, to be  
3 necessary for meeting the agency's department's  
4 responsibilities as established in this section.

5 (c) The agency department shall assist personnel of  
6 the local health councils in providing an annual orientation  
7 to council members about council member responsibilities.

8 (d) The agency department shall contract with the  
9 local health councils for the services specified in subsection  
10 (1). All contract funds shall be distributed according to an  
11 allocation plan developed by the agency department that  
12 provides for a minimum and equal funding base for each local  
13 health council. Any remaining funds shall be distributed  
14 based on adjustments for workload. The agency department may  
15 also make grants to or reimburse local health councils from  
16 federal funds provided to the state for activities related to  
17 those functions set forth in this section. The agency  
18 ~~department~~ may withhold funds from a local health council or  
19 cancel its contract with a local health council which does not  
20 meet performance standards agreed upon by the agency  
21 ~~department~~ and local health councils.

22 Section 3. Subsections (1) and (3) of section 408.035,  
23 Florida Statutes, are amended to read:

24 408.035 Review criteria.--

25 (1) The agency shall determine the reviewability of  
26 applications and shall review applications for  
27 certificate-of-need determinations for health care facilities  
28 and services, and hospices, ~~and health maintenance~~  
29 ~~organizations~~ in context with the following criteria:

30 (a) The need for the health care facilities and  
31 services and hospices being proposed in relation to the

1 applicable district plan ~~and state health plan~~, except in  
2 emergency circumstances which pose a threat to the public  
3 health.

4 (b) The availability, quality of care, efficiency,  
5 appropriateness, accessibility, extent of utilization, and  
6 adequacy of like and existing health care services and  
7 hospices in the service district of the applicant.

8 (c) The ability of the applicant to provide quality of  
9 care and the applicant's record of providing quality of care.

10 (d) The availability and adequacy of other health care  
11 facilities and services and hospices in the service district  
12 of the applicant, such as outpatient care and ambulatory or  
13 home care services, which may serve as alternatives for the  
14 health care facilities and services to be provided by the  
15 applicant.

16 (e) Probable economies and improvements in service  
17 that may be derived from operation of joint, cooperative, or  
18 shared health care resources.

19 (f) The need in the service district of the applicant  
20 for special equipment and services which are not reasonably  
21 and economically accessible in adjoining areas.

22 (g) The need for research and educational facilities,  
23 including, but not limited to, institutional training programs  
24 and community training programs for health care practitioners  
25 and for doctors of osteopathy and medicine at the student,  
26 internship, and residency training levels.

27 (h) The availability of resources, including health  
28 manpower, management personnel, and funds for capital and  
29 operating expenditures, for project accomplishment and  
30 operation; the effects the project will have on clinical needs  
31 of health professional training programs in the service

1 district; the extent to which the services will be accessible  
2 to schools for health professions in the service district for  
3 training purposes if such services are available in a limited  
4 number of facilities; the availability of alternative uses of  
5 such resources for the provision of other health services; and  
6 the extent to which the proposed services will be accessible  
7 to all residents of the service district.

8 (i) The immediate and long-term financial feasibility  
9 of the proposal.

10 (j) The special needs and circumstances of health  
11 maintenance organizations.

12 (k) The needs and circumstances of those entities  
13 which provide a substantial portion of their services or  
14 resources, or both, to individuals not residing in the service  
15 district in which the entities are located or in adjacent  
16 service districts. Such entities may include medical and  
17 other health professions, schools, multidisciplinary clinics,  
18 and specialty services such as open-heart surgery, radiation  
19 therapy, and renal transplantation.

20 (l) The probable impact of the proposed project on the  
21 costs of providing health services proposed by the applicant,  
22 upon consideration of factors including, but not limited to,  
23 the effects of competition on the supply of health services  
24 being proposed and the improvements or innovations in the  
25 financing and delivery of health services which foster  
26 competition and service to promote quality assurance and  
27 cost-effectiveness.

28 (m) The costs and methods of the proposed  
29 construction, including the costs and methods of energy  
30 provision and the availability of alternative, less costly, or  
31 more effective methods of construction.

1           (n) The applicant's past and proposed provision of  
2 health care services to Medicaid patients and the medically  
3 indigent.

4           (o) The applicant's past and proposed provision of  
5 services which promote a continuum of care in a multilevel  
6 health care system, which may include, but is not limited to,  
7 acute care, skilled nursing care, home health care, and  
8 assisted living facilities.

9           ~~(3) For any application authorized by s. 381.706(2)(j)~~  
10 ~~or (k) involving an approved facility based on a~~  
11 ~~certificate-of-need application filed prior to December 31,~~  
12 ~~1984, the department shall approve such application unless the~~  
13 ~~proposed consolidation or division would result in a facility~~  
14 ~~or facilities not meeting the criterion of financial~~  
15 ~~feasibility or unless the consolidation or division would~~  
16 ~~result in beds or services being moved more than 15 miles from~~  
17 ~~their original certificated location.~~

18           Section 4. Section 408.036, Florida Statutes, as  
19 amended by sections 93-214, 94-206, and 95-418, Laws of  
20 Florida, is amended to read:

21           408.036 Projects subject to review.--

22           (1) APPLICABILITY.--Unless exempt under subsection  
23 (3), all health-care-related projects, as described in  
24 paragraphs (a)-(k) ~~(a)-(n)~~, are subject to review and must file  
25 an application for a certificate of need with the agency  
26 department. The agency department is exclusively responsible  
27 for determining whether a health-care-related project is  
28 subject to review under ss. 408.031-408.045.

29           (a) The addition of beds by new construction or  
30 alteration.

31

1           (b) The new construction or establishment of  
2 additional health care facilities, including a replacement  
3 health care facility when the proposed project site is not  
4 located on the same site as the existing health care facility.

5           ~~(c) A capital expenditure of \$1 million or more by or~~  
6 ~~on behalf of a health care facility or hospice for a purpose~~  
7 ~~directly related to the furnishing of health services at such~~  
8 ~~facility; provided that a certificate of need is not required~~  
9 ~~for an expenditure to provide an outpatient health service, or~~  
10 ~~to acquire equipment or refinance debt, for which a~~  
11 ~~certificate of need is not otherwise required under this~~  
12 ~~subsection. The department shall, by rule, adjust the capital~~  
13 ~~expenditure threshold annually using an appropriate inflation~~  
14 ~~index.~~

15           (c)~~(d)~~ The conversion from one type of health care  
16 facility to another, including the conversion from one level  
17 of care to another, in a skilled or intermediate nursing  
18 facility, if the conversion effects a change in the level of  
19 care of 10 beds or 10 percent of total bed capacity of the  
20 skilled or intermediate nursing facility within a 2-year  
21 period. If the nursing facility is certified for both skilled  
22 and intermediate nursing care, the provisions of this  
23 paragraph do not apply.

24           (d)~~(e)~~ Any increase ~~change~~ in licensed bed capacity.

25           (e)~~(f)~~ The establishment of a hospice, or the direct  
26 provision of such services by a health care facility or health  
27 maintenance organization for those other than the subscribers  
28 of the health maintenance organization.

29           ~~(g) An acquisition by or on behalf of a health care~~  
30 ~~facility or health maintenance organization, by any means,~~  
31 ~~which acquisition would have required review if the~~



1 ~~acquisition had been by purchase, including an acquisition at~~  
2 ~~less than fair market value if the fair market value is~~  
3 ~~greater than the capital expenditure threshold.~~

4       (f)~~(h)~~ The establishment of a long-term care hospital,  
5 or inpatient institutional health services by a health care  
6 facility, or a substantial change in such services, ~~or the~~  
7 ~~obligation of capital expenditures for the offering of, or a~~  
8 ~~substantial change in, any such services which entails a~~  
9 ~~capital expenditure in any amount, or an annual operating cost~~  
10 ~~of \$500,000 or more. The department shall, by rule, adjust~~  
11 ~~the annual operating cost threshold annually using an~~  
12 ~~appropriate inflation index.~~

13       (g)~~(i)~~ The acquisition by any means of an existing  
14 health care facility by any person, unless the person provides  
15 the agency department with at least 30 days' written notice of  
16 the proposed acquisition, which notice is to include the  
17 services to be offered and the bed capacity of the facility,  
18 and unless the agency department does not determine, within 30  
19 days after receipt of such notice, that the services to be  
20 provided and the bed capacity of the facility will be changed.

21       ~~(j) The acquisition, by any means, of major medical~~  
22 ~~equipment by a health maintenance organization or health care~~  
23 ~~facility to the extent that the health maintenance~~  
24 ~~organization or health care facility is not exempt under~~  
25 ~~former s. 381.713(1).~~

26       (h)~~(k)~~ An increase in the cost of a project for which  
27 a certificate of need has been issued when the increase in  
28 cost exceeds the limits set forth in ~~paragraph (c), paragraph~~  
29 ~~(h), or~~ s. 408.032, or 20 ~~10~~ percent of the originally  
30 approved cost of the project, whichever is less, except that a  
31

1 cost overrun review is not necessary when the cost overrun is  
2 less than ~~\$20,000~~ \$10,000.

3 ~~(i)(1)~~ (i) A change in the number of psychiatric or  
4 rehabilitation beds.

5 ~~(j)(m)~~ (j) The establishment of tertiary health services.

6 ~~(k)(n)~~ (k) A transfer of a certificate of need, in which  
7 case an expedited review must be conducted according to rule  
8 and in accordance with s. 408.042.

9 (2) PROJECTS SUBJECT TO EXPEDITED REVIEW.--Unless  
10 exempt pursuant to subsection (3), projects subject to an  
11 expedited review shall include, but not be limited to:

12 (a) Cost overruns as defined in paragraph (1)(h),  
13 unless such cost overruns are caused by a change in service or  
14 scope which the agency ~~department~~ determines are otherwise  
15 reviewable.

16 (b) Research, education, and training programs.

17 ~~(c) Donations, when market value equals or exceeds the  
18 applicable capital expenditure thresholds for operating  
19 expenditures, or major medical equipment, as defined in this  
20 act.~~

21 ~~(d) Acquisition of land which is to be used for the  
22 construction of a health care facility, or office facilities  
23 for health care providers.~~

24 ~~(e) Termination of a health care service.~~

25 ~~(c)(f)~~ (c)(f) Shared services contracts or projects.

26 ~~(d)(g)~~ (d)(g) A transfer of a certificate of need.

27 ~~(h) Emergency projects and unforeseen major public  
28 health hazards.~~

29 ~~(i) A 50-percent increase in nursing home beds for a  
30 facility incorporated and operating in this state for at least  
31 60 years on or before July 1, 1988, which has a licensed~~

1 ~~nursing home facility located on a campus providing a variety~~  
2 ~~of residential settings and supportive services. The~~  
3 ~~increased nursing home beds shall be for the exclusive use of~~  
4 ~~the campus residents. Any application on behalf of an~~  
5 ~~applicant meeting this requirement shall be subject to the~~  
6 ~~base fee of \$5,000 provided in s. 408.038.~~

7 (e)~~(j)~~ Combination within one nursing home facility of  
8 the beds or services authorized by two or more certificates of  
9 need issued in the same planning subdistrict.

10 (f)~~(k)~~ Division into two or more nursing home  
11 facilities of beds or services authorized by one certificate  
12 of need issued in the same planning subdistrict. Such  
13 division shall not be approved if it would adversely affect  
14 the original certificate's approved cost.

15  
16 The agency ~~department~~ shall develop rules to implement the  
17 provisions for expedited review, including time schedule,  
18 application content, and application processing.

19 (3) EXEMPTIONS.--Upon request, supported by such  
20 documentation as the agency ~~department~~ requires, the agency  
21 ~~department~~ shall grant an exemption from the provisions of  
22 subsection (1):

23 ~~(a) For any expenditure by or on behalf of a health~~  
24 ~~care facility for any part of the physical plant which is not~~  
25 ~~to be directly used for providing health services or housing~~  
26 ~~health care providers. This exemption applies to expenditures~~  
27 ~~for parking facilities, meeting rooms, cafeterias,~~  
28 ~~administrative data processing facilities, research buildings,~~  
29 ~~landscaping, and similar projects, but does not apply to~~  
30 ~~expenditures for office facilities for health care providers.~~

31

1           ~~(b) For any expenditure to eliminate or prevent safety~~  
2 ~~hazards as defined by federal, state, or local codes.~~

3           ~~(c) For any expenditure to replace any part of a~~  
4 ~~facility or equipment which is destroyed as a result of fire,~~  
5 ~~civil disturbance, or storm or any other act of God.~~

6           ~~(d) For any expenditure to acquire major medical~~  
7 ~~equipment that is a substantially identical replacement for~~  
8 ~~existing equipment being taken out of service.~~

9           ~~(e) For the initiation or expansion of obstetric~~  
10 ~~services after July 1, 1988.~~

11           (a)(f) For any expenditure to replace or renovate any  
12 part of a health care licensed nursing facility, provided that  
13 the number of licensed beds will not increase and, in the case  
14 of a replacement facility, the project site is the same as the  
15 facility being replaced.

16           ~~(g) For providing respite care services. As used in~~  
17 ~~this paragraph, the term "respite care" means short-term care~~  
18 ~~in a licensed health care facility which is personal or~~  
19 ~~custodial in nature and is provided by reason of chronic~~  
20 ~~illness, physical infirmity, or advanced age for the purpose~~  
21 ~~of temporarily relieving family members of the burden of~~  
22 ~~providing care and attendance in the home. In providing~~  
23 ~~respite care, the health care facility must be the primary~~  
24 ~~caregiver. An individual may be admitted to a respite care~~  
25 ~~program in a hospital without regard to inpatient requirements~~  
26 ~~relating to admitting order and attendance of a member of a~~  
27 ~~medical staff.~~

28           (b)(h) For hospice services provided by a rural  
29 hospital, as defined in s. 395.602, or for swing beds in such  
30 rural hospital in a number that does not exceed one-half of  
31 its licensed beds.

1           ~~(c)(i)~~ For the conversion of licensed acute care  
2 hospital beds to Medicare and Medicaid certified skilled  
3 nursing beds in a rural hospital as defined in s. 395.602, so  
4 long as the conversion of the beds does not involve the  
5 construction of new facilities. The total number of skilled  
6 nursing beds, including swing beds, may not exceed one-half of  
7 the total number of licensed beds in the rural hospital as of  
8 July 1, 1993. Certified skilled nursing beds designated under  
9 this paragraph, excluding swing beds, shall be included in the  
10 community nursing home bed inventory. A rural hospital which  
11 subsequently decertifies any acute care beds exempted under  
12 this paragraph shall notify the agency of the decertification,  
13 and the agency shall adjust the community nursing home bed  
14 inventory accordingly.

15           ~~(d)(j)~~ For the addition of nursing home beds at a  
16 skilled nursing facility that is part of a retirement  
17 community that provides a variety of residential settings and  
18 supportive services and that has been incorporated and  
19 operated in this state for at least 65 years on or before July  
20 1, 1994. All nursing home beds must not be available to the  
21 public but must be for the exclusive use of the community  
22 residents.

23           ~~(e)(k)~~ For an increase in the bed capacity of a  
24 nursing facility licensed for at least 50 beds as of January  
25 1, 1994, under part II of chapter 400 which is not part of a  
26 continuing care facility if, after the increase, the total  
27 licensed bed capacity of that facility is not more than 60  
28 beds and if the facility has been continuously licensed since  
29 1950 and has received a superior rating on each of its two  
30 most recent licensure surveys.

31           (f) For the termination of health care services.

1  
2 A request for exemption under this subsection may be made at  
3 any time and is not subject to the batching requirements of  
4 this section.

5 Section 5. Subsections (1) and (4) of section 408.037,  
6 Florida Statutes, are amended to read:

7 408.037 Application content.--An application for a  
8 certificate of need shall contain:

9 (1) A detailed description of the proposed project and  
10 statement of its purpose and need in relation to the  
11 applicant's long-range plan and, the local health plan, ~~and~~  
12 ~~the state health plan.~~

13 (4) A certified copy of a resolution by the board of  
14 directors of the applicant, or other governing authority if  
15 not a corporation, authorizing the filing of the application;  
16 authorizing the applicant to incur the expenditures necessary  
17 to accomplish the proposed project; certifying that if issued  
18 a certificate, the applicant shall accomplish the proposed  
19 project within the time allowed by law and at or below the  
20 costs contained in the application; and certifying that the  
21 applicant shall license and operate the facility. An applicant  
22 shall substantially comply with the requirements of this  
23 subsection.

24 Section 6. Section 408.038, Florida Statutes, is  
25 amended to read:

26 408.038 Fees.--The agency ~~department~~ shall assess fees  
27 on certificate-of-need applications. Such fees shall be for  
28 the purpose of funding ~~the Statewide Health Council,~~ the  
29 functions of the local health councils, ~~and~~ the activities of  
30 the agency, ~~department~~ and shall be allocated as provided in  
31 s. 408.033. The fee shall be determined as follows:

1 (1) A minimum base fee of \$5,000.

2 (2) In addition to the base fee of \$5,000, 0.015 of  
3 each dollar of proposed expenditure, except that a fee may not  
4 exceed \$22,000.

5 Section 7. Section 408.039, Florida Statutes, 1996  
6 Supplement, is amended to read:

7 408.039 Review process.--The review process for  
8 certificates of need shall be as follows:

9 (1) REVIEW CYCLES.--The agency ~~department~~ by rule  
10 shall provide for applications to be submitted on a timetable  
11 or cycle basis; provide for review on a timely basis; and  
12 provide for all completed applications pertaining to similar  
13 types of services or, ~~facilities, or equipment~~ affecting the  
14 same service district to be considered in relation to each  
15 other no less often than two times a year.

16 (2) LETTERS OF INTENT.--

17 (a) At least 30 days prior to filing an application, a  
18 letter of intent shall be filed by the applicant with the  
19 agency ~~local health council and the department~~, respecting the  
20 development of a proposal subject to review. No letter of  
21 intent is required for expedited projects as defined by rule  
22 by the agency ~~department~~.

23 (b) The agency ~~department~~ shall provide a mechanism by  
24 which applications may be filed to compete with proposals  
25 described in filed letters of intent.

26 (c) Letters of intent shall describe the proposal with  
27 specificity, including proposed capital expenditures, number  
28 of beds sought, if any, services, specific subdistrict  
29 location, identification of the applicant, including the names  
30 of those with controlling interest in the applicant, and such  
31 other information as the department may by rule prescribe. An

1 applicant shall substantially comply with the requirements  
2 contained in this paragraph.~~The letter of intent shall~~  
3 ~~contain a certified copy of a resolution by the board of~~  
4 ~~directors of the applicant, or other governing authority if~~  
5 ~~not a corporation, authorizing the filing of the application~~  
6 ~~described in the letter of intent; authorizing the applicant~~  
7 ~~to incur the expenditures necessary to accomplish the proposed~~  
8 ~~project; certifying that if issued a certificate, the~~  
9 ~~applicant shall accomplish the proposed project within the~~  
10 ~~time allowed by law and at or below the costs contained in the~~  
11 ~~application; and certifying that the applicant shall license~~  
12 ~~and operate the facility.~~

13 (d) ~~Within 14 days after filing a letter of intent,~~  
14 ~~the applicant shall publish a notice of filing to be published~~  
15 ~~in a newspaper of general circulation in the area affected by~~  
16 ~~the proposal. The notice of filing shall be published once a~~  
17 ~~week for 2 consecutive weeks on forms and in the format and~~  
18 ~~content specified by the department by rule. Within 21 days~~  
19 ~~after the filing of letters of intent, the agency, the~~  
20 ~~department shall publish notice of the filing of letters of~~  
21 ~~intent in the Florida Administrative Weekly and notice that,~~  
22 ~~if requested, a public hearing shall be held at the local~~  
23 ~~level within 21 days after the application is deemed complete.~~  
24 ~~Notices under this subsection shall contain due dates~~  
25 ~~applicable to the cycle for filing applications and for~~  
26 ~~requesting a hearing.~~

27 (3) APPLICATION PROCESSING.--

28 (a) An applicant shall file an application with the  
29 agency department, and shall furnish a copy of the application  
30 to the local health council and the agency department. Within  
31 10 ~~15~~ days after the applicable application filing deadline



1 established by agency ~~department~~ rule, the staff of the agency  
2 ~~department~~ shall determine if the application is complete. If  
3 the application is incomplete, the staff shall request  
4 specific information from the applicant necessary for the  
5 application to be complete; however, the staff may make only  
6 one such request. If the requested information is not filed  
7 with the department within 11 ~~21~~ days of the receipt of the  
8 staff's request, the application shall be deemed incomplete  
9 and deemed withdrawn from consideration.

10 (b) Upon the request of any applicant or substantially  
11 affected person within 14 days after notice that an  
12 application has been filed, a public hearing may be held at  
13 the agency's ~~department's~~ discretion if the agency ~~department~~  
14 determines that a proposed project involves issues of great  
15 local public interest. The public hearing shall allow  
16 applicants and other interested parties reasonable time to  
17 present their positions and to present rebuttal information. A  
18 recorded verbatim record of the hearing shall be maintained.  
19 The public hearing shall be held at the local level within 21  
20 days after the application is deemed complete.

21 (4) STAFF RECOMMENDATIONS.--

22 (a) The agency's ~~department's~~ review of and final  
23 agency action on applications shall be in accordance with the  
24 district plan, and statutory criteria, and the implementing  
25 administrative rules. In the application review process, the  
26 agency ~~department~~ shall give a preference, as defined by rule  
27 of the agency ~~department~~, to an applicant which proposes to  
28 develop a nursing home in a nursing home geographically  
29 underserved area.

30 (b) Within 75 ~~60~~ days after all the applications in a  
31 review cycle are determined to be complete, the agency

1 ~~department~~ shall issue its State Agency Action Report and  
2 Notice of Intent to grant a certificate of need for the  
3 project in its entirety, to grant a certificate of need for  
4 identifiable portions of the project, or to deny a certificate  
5 of need. The State Agency Action Report shall set forth in  
6 writing its findings of fact and determinations upon which its  
7 decision is based. If a finding of fact or determination by  
8 the agency ~~department~~ is counter to the district plan of the  
9 local health council, the agency ~~department~~ shall provide in  
10 writing its reason for its findings, item by item, to the  
11 local health council ~~and the Statewide Health Council~~. If the  
12 agency ~~department~~ intends to grant a certificate of need, the  
13 State Agency Action Report or the Notice of Intent shall also  
14 include any conditions which the agency ~~department~~ intends to  
15 attach to the certificate of need. The agency ~~department~~ shall  
16 designate by rule a senior staff person, other than the person  
17 who issues the final order, to issue State Agency Action  
18 Reports and Notices of Intent.

19 (c) The agency ~~department~~ shall publish its proposed  
20 decision set forth in the Notice of Intent in the Florida  
21 Administrative Weekly within 14 days after the Notice of  
22 Intent is issued.

23 (d) If no administrative hearing is requested pursuant  
24 to subsection (5), the State Agency Action Report and the  
25 Notice of Intent shall become the final order of the agency  
26 ~~department~~. The agency ~~department~~ shall provide a copy of the  
27 final order to the appropriate local health council.

28 (5) ADMINISTRATIVE HEARINGS.--

29 (a) Within 21 days after publication of notice of the  
30 State Agency Action Report and Notice of Intent, any person  
31 authorized under paragraph (b) to participate in a hearing may

1 file a request for an administrative hearing; failure to file  
2 a request for hearing within 21 days of publication of notice  
3 shall constitute a waiver of any right to a hearing and a  
4 waiver of the right to contest the final decision of the  
5 agency ~~department~~. A copy of the request for hearing shall be  
6 served on the applicant.

7 (b) Hearings shall be held in Tallahassee unless the  
8 administrative law judge determines that changing the location  
9 will facilitate the proceedings. In administrative  
10 proceedings challenging the issuance or denial of a  
11 certificate of need, only applicants considered by the agency  
12 ~~department~~ in the same batching cycle are entitled to a  
13 comparative hearing on their applications. Existing health  
14 care facilities may initiate or intervene in such  
15 administrative hearing upon a showing that an established  
16 program will be substantially affected by the issuance of a  
17 certificate of need to a competing proposed facility or  
18 program within the same service area as defined by rule  
19 ~~district, provided that existing health care providers, other~~  
20 ~~than the applicant, have no standing or right to initiate or~~  
21 ~~intervene in an administrative hearing involving a health care~~  
22 ~~project which is subject to certificate-of-need review solely~~  
23 ~~on the basis of s. 408.036(1)(c).~~ The agency ~~department~~ shall  
24 assign proceedings requiring hearings to the Division of  
25 Administrative Hearings of the Department of Management  
26 Services within 10 days after the time has run to request a  
27 hearing. ~~Except upon unanimous consent of the parties or upon~~  
28 ~~the granting by the administrative law judge of a motion of~~  
29 ~~continuance,~~ Hearings shall commence within 60 days after the  
30 administrative law judge has been assigned. All  
31 non-state-agency parties shall bear their own expense of

1 preparing a transcript. In any application for a certificate  
2 of need which is referred to the Division of Administrative  
3 Hearings for hearing, the administrative law judge shall  
4 complete and submit to the parties a recommended order as  
5 provided in ss. 120.569 and 120.57. The recommended order  
6 shall be issued within 30 days after the receipt of the  
7 proposed recommended orders or the deadline for submission of  
8 such proposed recommended orders, whichever is earlier. The  
9 division shall adopt procedures for administrative hearings  
10 which shall maximize the use of stipulated facts and shall  
11 provide for the admission of prepared testimony.

12 (c) The agency department shall issue its final order  
13 within 45 days after receipt of the recommended order.

14 (d) If the agency department fails to take action  
15 within the time specified in paragraph (4)(a) or paragraph  
16 (5)(c), ~~or as otherwise agreed to by the applicant and the~~  
17 ~~department,~~ the applicant may take appropriate legal action to  
18 compel the agency department to act. When making a  
19 determination on an application for a certificate of need, the  
20 agency department is specifically exempt from the time  
21 limitations provided in s. 120.60(1).

22 (6) JUDICIAL REVIEW.--

23 (a) A party to an administrative hearing for an  
24 application for a certificate of need has the right, within  
25 not more than 30 days after the date of the final order, to  
26 seek judicial review in the District Court of Appeal pursuant  
27 to s. 120.68. The agency department shall be a party in any  
28 such proceeding.

29 (b) In such judicial review, the court shall affirm  
30 the final order of the agency department, unless the decision

31

1 is arbitrary, capricious, or not in compliance with ss.  
2 408.031-408.045.

3 (c) The court, in its discretion, may award reasonable  
4 attorney's fees and costs to the prevailing party if the court  
5 finds that there was a complete absence of a justiciable issue  
6 of law or fact raised by the losing party.

7 Section 8. Subsection (2) of section 408.040, Florida  
8 Statutes, is amended to read:

9 408.040 Conditions and monitoring.--

10 (2)(a) Unless the applicant has commenced  
11 construction, if the project provides for construction, unless  
12 the applicant has incurred an enforceable capital expenditure  
13 commitment for a project, if the project does not provide for  
14 construction, or unless subject to paragraph (b), a  
15 certificate of need shall terminate 18 months ~~1 year~~ after the  
16 date of issuance, except in the case of a multifacility  
17 project, as defined in s. 408.032(15)~~408.032(17)~~, where the  
18 certificate of need shall terminate 2 years after the date of  
19 issuance. ~~The department may extend the period of validity of~~  
20 ~~the certificate for an additional period of up to 6 months,~~  
21 ~~upon a showing of good cause, as defined by rule, by the~~  
22 ~~applicant for the extension.~~ The agency department shall  
23 monitor the progress of the holder of the certificate of need  
24 in meeting the timetable for project development specified in  
25 the application with the assistance of the local health  
26 council as specified in s. 408.033(1)(b)5., and may revoke the  
27 certificate of need, if the holder of the certificate is not  
28 meeting such timetable and is not making a good faith effort,  
29 as defined by rule, to meet it.

30 (b) A certificate of need issued to an applicant  
31 holding a provisional certificate of authority under chapter

1 651 shall terminate 18 months ~~1 year~~ after the applicant  
2 receives a valid certificate of authority from the Department  
3 of Insurance. ~~The certificate of need validity period may be~~  
4 ~~extended by the department for an additional period of up to 6~~  
5 ~~months upon a showing of good cause, as defined by rule, by~~  
6 ~~the applicant for the extension.~~

7 (c) The certificate-of-need validity period for a  
8 project shall be extended by the agency ~~department~~, to the  
9 extent that the applicant demonstrates to the satisfaction of  
10 the agency ~~department~~ that good faith commencement of the  
11 project is being delayed by litigation or by governmental  
12 action or inaction with respect to regulations or permitting  
13 precluding commencement of the project.

14 (d) If an application is filed to consolidate two or  
15 more certificates as authorized by s. 408.036(2)(e)(~~j~~) or to  
16 divide a certificate of need into two or more facilities as  
17 authorized by s. 408.036(2)(f)(~~k~~), the validity period of the  
18 certificate or certificates of need to be consolidated or  
19 divided shall be extended for the period beginning upon  
20 submission of the application and ending when final agency  
21 action and any appeal from such action has been concluded.  
22 However, no such suspension shall be effected if the  
23 application is withdrawn by the applicant.

24 Section 9. Section 408.042, Florida Statutes, is  
25 amended to read:

26 408.042 Limitation on transfer.--The holder of a  
27 certificate of need shall not charge a price for the transfer  
28 of the certificate of need to another person that exceeds the  
29 total amount of the actual costs incurred by the holder in  
30 obtaining the certificate of need. Such actual costs must be  
31 documented by an affidavit executed by the transferor under

1 oath. A holder who violates this subsection is guilty of a  
2 misdemeanor of the first degree, punishable as provided in s.  
3 775.082, or by a fine not exceeding \$10,000, or both. ~~Nothing~~  
4 ~~in this section shall be construed to prevent or alter the~~  
5 ~~value of a transfer or sale by an existing facility of a~~  
6 ~~certificate of need obtained before June 17, 1987, when such~~  
7 ~~facility is transferred with the certificate of need.~~

8 Section 10. Subsections (1) and (3) of section  
9 408.043, Florida Statutes, are amended to read:

10 408.043 Special provisions.--

11 ~~(1) OSTEOPATHIC ACUTE CARE HOSPITALS.--When an~~  
12 ~~application is made for a certificate of need to construct or~~  
13 ~~to expand an osteopathic acute care hospital, the need for~~  
14 ~~such hospital shall be determined on the basis of the need for~~  
15 ~~and availability of osteopathic services and osteopathic acute~~  
16 ~~care hospitals in the district. When a prior certificate of~~  
17 ~~need to establish an osteopathic acute care hospital has been~~  
18 ~~issued in a district, and the facility is no longer used for~~  
19 ~~that purpose, the department may continue to count such~~  
20 ~~facility and beds as an existing osteopathic facility in any~~  
21 ~~subsequent application for construction of an osteopathic~~  
22 ~~acute care hospital.~~

23 ~~(3) VALIDITY OF CERTIFICATE OF NEED.--A certificate of~~  
24 ~~need issued by the department for nursing home facilities of~~  
25 ~~100 beds or more prior to February 14, 1986, is valid,~~  
26 ~~provided that such facility has expended at least \$50,000 in~~  
27 ~~reliance upon such certificate of need, excluding legal fees,~~  
28 ~~prior to the initiation of proceedings under the~~  
29 ~~Administrative Procedure Act subsequent to February 14, 1986,~~  
30 ~~contesting the validity of the certificate of need. If such~~  
31 ~~nursing home certificate of need includes beds that have not~~

1 ~~yet been licensed as of June 17, 1987, such beds shall not be~~  
2 ~~considered or utilized in the determination of need or~~  
3 ~~included in the inventory of licensed or approved nursing home~~  
4 ~~beds by the department, with respect to applications filed~~  
5 ~~before June 17, 1987. This subsection shall only apply to~~  
6 ~~nursing home beds. Nothing contained herein shall be~~  
7 ~~construed to deny action pursuant to s. 120.69, or to~~  
8 ~~eliminate any conditions of the certificate of need or time~~  
9 ~~requirements to commence construction, including any~~  
10 ~~authorized extensions.~~

11 Section 11. Subsection (1) of section 408.0455,  
12 Florida Statutes, is amended to read:

13 408.0455 Effect of ss. 408.031-408.045; rules; health  
14 councils and plans; pending proceedings.--

15 (1) Nothing contained in ss. 408.031-408.045 is  
16 intended to repeal or modify any of the existing rules of the  
17 Department of Health and Rehabilitative Services, which shall  
18 remain in effect and shall be enforceable by the Agency for  
19 Health Care Administration; the existing composition of the  
20 local health councils ~~and the Statewide Health Council; or the~~  
21 ~~state health plan;~~ or any of the local district health plans,  
22 unless, and only to the extent that, there is a direct  
23 conflict with the provisions of ss. 408.031-408.045.

24 Section 12. Subsection (3) of section 189.415, Florida  
25 Statutes, is amended to read:

26 189.415 Special district public facilities report.--

27 (3) A special district proposing to build, improve, or  
28 expand a public facility which requires a certificate of need  
29 pursuant to chapter 408 shall elect to notify the appropriate  
30 local general-purpose government of its plans either in its  
31 5-year plan or at the time the letter of intent is filed with



1 the Agency for Health Care Administration ~~Department of Health~~  
2 ~~and Rehabilitative Services~~ pursuant to s. 408.039.

3 Section 13. Paragraph (i) of subsection (4) of section  
4 240.5121, Florida Statutes, is amended to read:

5 240.5121 Cancer control and research.--

6 (4) FLORIDA CANCER CONTROL AND RESEARCH ADVISORY  
7 COUNCIL; CREATION; COMPOSITION.--

8 (i) The council shall approve each year a program for  
9 cancer control and research to be known as the "Florida Cancer  
10 Plan" which shall be ~~consistent with the State Health Plan~~  
11 ~~developed by the Statewide Health Council~~ and integrated and  
12 coordinated with existing programs in this state.

13 Section 14. Subsection (1) of section 395.604, Florida  
14 Statutes, is amended to read:

15 395.604 Other rural hospital programs.--

16 (1) The agency may license rural primary care  
17 hospitals subject to federal approval for participation in the  
18 Medicare and Medicaid programs. Rural primary care hospitals  
19 shall be treated in the same manner as emergency care  
20 hospitals and rural hospitals with respect to ss.  
21 395.605(2)-(8)(a), 408.033(2)(b)3.~~(3)(b)3.~~, and 408.038.

22 Section 15. Subsection (1) of section 408.702, Florida  
23 Statutes, is amended to read:

24 408.702 Community health purchasing alliance;  
25 establishment.--

26 (1) There is hereby created a community health  
27 purchasing alliance in each of the 11 health service planning  
28 districts established under s. 408.032(4)(5). Each alliance  
29 must be operated as a state-chartered, nonprofit private  
30 organization organized pursuant to chapter 617.

31

1           Section 16. Paragraph (c) of subsection (1) of section  
2 641.60, Florida Statutes, 1996 Supplement, is amended to read:

3           641.60 Statewide Managed Care Ombudsman Committee.--

4           (1) As used in ss. 641.60-641.75:

5           (c) "District" means one of the health service  
6 planning districts as defined in s. 408.032~~(4)~~~~(5)~~.

7           Section 17. Subsection (9) of section 186.003, Florida  
8 Statutes, and subsection (9) of section 186.503, Florida  
9 Statutes, as amended by chapter 95-280, Laws of Florida, and  
10 subsection (10) of section 395.0191, Florida Statutes, are  
11 hereby repealed.

12           Section 18. That portion of section 143 of chapter  
13 95-418, Laws of Florida, appearing as section 408.0366,  
14 Florida Statutes, is hereby repealed.

15           Section 19. This act shall take effect July 1, 1997.

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HOUSE SUMMARY

Eliminates the Statewide Health Council and responsibilities thereof. Eliminates certificate of need requirements for capital expenditures, acquisitions of major medical equipment, donations, land acquisitions for health care facilities or provider offices, and emergency projects and unforeseen health hazards. Requires certificates for replacement facilities to be located at a new site and for an increase, rather than a change, in a facility's licensed bed capacity, and increases the allowable project cost increase where a certificate has already been issued. Exempts certain renovations and the termination of a health care service from certificate requirements. Requires substantial compliance with application and letter of intent requirements. Revises timeframes for determinations of completeness and for completing an incomplete application. Allows 75 rather than 60 days for grant or denial of applications by the Agency for Health Care Administration. Increases from 1 year to 18 months the period of validity of certificates, and eliminates 6-month extensions. Removes special provisions relating to certificates for osteopathic acute care hospitals and to validity of certificates issued for certain nursing homes. Repeals an exemption for establishment of a Medicare-certified home health agency by a continuing care facility or a retirement community or residential facility meeting specified criteria.