

By the Committee on Health Care and Senator Williams

317-1801-98

1 A bill to be entitled
 2 An act relating to public records and meetings;
 3 creating s. 395.3036, F.S.; providing that the
 4 records of a private corporation that leases a
 5 public hospital or other public health care
 6 facility are confidential and exempt from
 7 public records requirements, and the meetings
 8 of the governing board of such corporation are
 9 exempt from public meeting requirements, except
 10 under specified circumstances; providing for
 11 future review and repeal; subjecting certain
 12 exempt private corporations to s. 155.40(5),
 13 F.S.; providing for accountability for
 14 expenditure of public funds; providing
 15 applicability; providing a finding of public
 16 necessity; providing for the continued
 17 applicability of the Florida Rules of Civil
 18 Procedure and statutory provisions relating to
 19 discoverability in civil actions to records and
 20 information made exempt in the act; providing
 21 an effective date.

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

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 25 Section 1. Section 395.3036, Florida Statutes, is
 26 created to read:

27 395.3036 Confidentiality of records and meetings;
 28 corporations that lease public hospitals and other public
 29 health care facilities.--The records of a private corporation
 30 that leases a public hospital or other public health care
 31 facility are confidential and exempt from the provisions of s.

1 119.07(1) and s. 24(a), Art. I of the State Constitution, and
2 the meetings of the governing board of such a private
3 corporation are exempt from the provisions of s. 286.011 and
4 s. 24(b), Art. I of the State Constitution unless:

5 (1) The governing board of the entity that owns the
6 public hospital or other public health care facility was
7 involved in the formation of the private corporation; or

8 (2) More than one-third of the members of the
9 governing board of the private corporation are concurrently
10 members of the governing board of the entity that owns the
11 public hospital or other public health care facility.

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13 This section is subject to the Open Government Sunset Review
14 Act of 1995 in accordance with s. 119.15, and shall stand
15 repealed on October 2, 2003, unless reviewed and saved from
16 repeal through reenactment by the Legislature.

17 Section 2. Any private corporation that is exempt from
18 the Public Records Law or Public Meetings Law under section
19 395.3036, Florida Statutes, is subject to the requirements of
20 subsection 155.40(5), Florida Statutes, relating to
21 accountability for the expenditure of public funds.

22 Section 3. This act applies to all existing lease
23 arrangements with respect to public hospitals or other public
24 health care facilities and to all new lease arrangements that
25 meet the requirements of this act.

26 Section 4. The Legislature finds that it is a public
27 necessity that all records of a private corporation and all
28 meetings of the governing board of the private corporation be
29 confidential and exempt from public records and public meeting
30 requirements when the private corporation leases a public
31 hospital or other public health care facility and the private

1 corporation is not owned or controlled by the public entity
2 that owns the hospital or other facility. This exemption is a
3 public necessity because:

4 (1) Public hospitals and other public health care
5 facilities must be able to lease their facilities to private
6 corporations in order to increase access to health care in
7 Florida.

8 (2) In the absence of the ability to lease the
9 facility to a private corporation, the public entity's only
10 choice is to sell the facility to a private corporation. Such
11 sales may result in a loss to the public.

12 (3) The ability to lease the hospital or other health
13 care facility is often the more desirable option and often
14 leads to more income for the public entity that owns the
15 hospital. Without this exemption, public hospitals and other
16 public health care facilities will be unable to attract
17 private corporations to assume responsibility for the
18 operations of public hospitals or other public health care
19 facilities.

20 (4) The privatization of hospitals and other health
21 care facilities, through lease arrangements, is critical to
22 the delivery of health care in Florida.

23 (5) More than 20 public hospitals have been leased to
24 private corporations that were not formed by and are not
25 controlled by the public entity that owns the hospital. Those
26 leases were expressly authorized by section 155.40, Florida
27 Statutes, or by special acts of the Legislature.

28 Section 5. This act does not change existing law
29 relating to discovery of records and information that are
30 otherwise discoverable under the Florida Rules of Civil
31 Procedure or any statutory provision allowing discovery or

1 presuit disclosure of such records and information for the
2 purpose of civil actions.

3 Section 6. This act shall take effect upon becoming a
4 law.

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6 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
7 COMMITTEE SUBSTITUTE FOR
8 SB 1044

9 This bill makes confidential and exempt from the statutory
10 Public Records and Public Meetings Laws the records of a
11 private corporation that leases a public hospital or other
12 public health care facility. The confidentiality and exemption
13 protections do not apply if the governing board of a public
14 entity is involved in the formation of the private corporation
15 that leases the public facility or more than one-third of the
16 members of the governing board members of the private
17 corporation are concurrently members of the governing board of
18 the entity that owns the public facility. The exemptions are
19 scheduled for Sunset review or repeal by October 2, 2003. A
20 private corporation that leases a public hospital or other
21 public health care facility and is exempted from the Public
22 Records Law and the Public Meetings Law must participate in
23 the public entity's appropriations process to receive more
24 than \$100,000 from the public entity that owns such a
25 facility. The confidentiality and Public Records Law and
26 Public Meetings Law exemptions are made to apply retroactively
27 and prospectively to all existing public health facility lease
28 arrangements that meet the requirements of the act. A
29 statement of public necessity is provided. The applicability
30 of current law relating to civil actions and the Florida Rules
31 of Civil Procedure continue for records and information made
confidential and exempt in the bill.