

By the Committee on Governmental Operations and  
Representatives Peaden, Miller, Turnbull, Maygarden and Brooks

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; providing  
12          applicability; providing a finding of public  
13          necessity; providing an effective date.

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

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17           Section 1. Section 395.3036, Florida Statutes, is  
18          created to read:

19                   395.3036 Confidentiality of records and meetings;  
20                   corporations that lease public hospitals and other health care  
21                   facilities.--The records of a private corporation that leases  
22                   a public hospital or other public health care facility are  
23                   confidential and exempt from the provisions of s. 119.07(1)  
24                   and s. 24(a), Art. I of the State Constitution, and the  
25                   meetings of the governing board of such a private corporation  
26                   are exempt from the provisions of s. 286.011 and s. 24(b),  
27                   Art. I of the State Constitution unless:

28                           (1) The governing board of the entity that owns the  
29                           public hospital or other public health care facility was the  
30                           incorporator of the private corporation; and  
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1       (2) A majority of the members of the governing board  
2 of the private corporation are also members of the governing  
3 board of the entity that owns the public hospital or other  
4 public health care facility.

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8 repealed on October 2, 2003, unless reviewed and saved from  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

10       Section 2. This act applies retroactively to all  
11 existing lease arrangements with respect to public hospitals  
12 or other health care facilities and prospectively to all new  
13 lease arrangements that meet the requirements of this act.

14       Section 3. The Legislature finds that it is a public  
15 necessity that all records of a private corporation and all  
16 meetings of the governing board of the private corporation be  
17 confidential and exempt from public records and public meeting  
18 requirements when the private corporation leases a public  
19 hospital or other health care facility and the private  
20 corporation is not owned or controlled by the public entity  
21 that owns the hospital or other facility. This exemption is a  
22 public necessity because public hospitals and other public  
23 health care facilities must be able to lease their facilities  
24 to private corporations in order to increase access to health  
25 care in Florida. In the absence of the ability to lease the  
26 facility to a private corporation, the public entity's only  
27 choice is to sell the facility to a private corporation. Such  
28 sales may result in a loss to the public. The ability to lease  
29 the hospital or other health care facility is often the more  
30 desirable option and often leads to more income for the public  
31 entity that owns the hospital. Without this exemption, many

1 more hospitals and health care facilities will be unable to  
2 attract private corporations to assume responsibility for the  
3 operations of the public hospitals or other health care  
4 facilities. The privatization of hospitals and other health  
5 care facilities, through lease arrangements, is critical to  
6 the delivery of health care in Florida. This exemption is also  
7 necessary because more than 20 public hospitals have been  
8 leased to private corporations that were not formed by and are  
9 not controlled by the public entity that owns the hospital.  
10 Those leases were expressly authorized by s. 155.40, Florida  
11 Statutes, or by special acts of the Legislature. Except in  
12 those instances in which the lease expressly imposed the  
13 public records and public meeting laws on the lessee, both the  
14 lessors and the lessees believed that the private corporation  
15 would not be subject to the public records laws and public  
16 meeting laws of this state. It would be patently unfair to  
17 have induced those private corporations to make substantial  
18 investments in the publicly-owned hospitals and other health  
19 care facilities and to now change the rules and impose the  
20 public records and public meeting laws on those private  
21 corporations.

22           Section 4. This act shall take effect upon becoming a  
23 law.

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