

Amendment No. 01 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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5			ORIGINAL STAMP BELOW
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11 The Committee on Governmental Operations offered the  
12 following:

14 **Amendment (with title amendment)**

15 Remove from the bill: Everything after the enacting clause  
16  
17 and insert in lieu thereof:

18 Section 1. Paragraph (b) of subsection (2) and  
19 subsection (4) of section 395.3035, Florida Statutes, are  
20 amended, present subsection (6) is renumbered as subsection  
21 (8), and new subsections (6) and (7) are added to that  
22 section, to read:

23 395.3035 Confidentiality of ~~public~~ hospital records  
24 and meetings.--

25 (2) The following ~~public hospital~~ records and  
26 information of any hospital which is subject to chapter 119  
27 and s. 24(a), Art. I of the State Constitution are  
28 confidential and exempt from the provisions of s. 119.07(1)  
29 and s. 24(a), Art. I of the State Constitution:

30 (b) ~~A public hospital's Strategic plans, including~~  
31 ~~plans for marketing its services, which services are or may~~

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1 ~~reasonably be expected by the hospital's governing board to be~~  
2 ~~provided by competitors of the hospital.~~ However, documents  
3 that are submitted to the hospital's governing board as part  
4 of the board's approval of the hospital's budget, and the  
5 budget itself, are not confidential and exempt.

6 (4)(a) Those portions of a board meeting at which ~~the~~  
7 ~~written strategic plans, including written plans for marketing~~  
8 ~~its services,~~ are discussed or reported on are exempt from the  
9 provisions of s. 286.011 and s. 24(b), Art. I of the State  
10 Constitution.

11 (b) Those portions of a board meeting at which written  
12 strategic plans are modified or approved by the governing  
13 board are exempt from the provisions of s. 286.011 and s.  
14 24(b), Art. I of the State Constitution. This paragraph is  
15 subject to the Open Government Sunset Review Act of 1995 in  
16 accordance with s. 119.15 and shall stand repealed on October  
17 2, 2004, unless reviewed and saved from repeal through  
18 reenactment by the Legislature.

19 (c) All portions of any board meeting which are closed  
20 to the public pursuant to this subsection shall be recorded by  
21 a certified court reporter. The reporter shall record the  
22 times of commencement and termination of the meeting, all  
23 discussion and proceedings, the names of all persons present  
24 at any time, and the names of all persons speaking. No portion  
25 of the meeting shall be off the record. The court reporter's  
26 notes shall be fully transcribed and maintained by the  
27 hospital records custodian within a reasonable time after the  
28 meeting. The transcript shall become public 3 years after the  
29 date of the board meeting or at an earlier date if the  
30 strategic plan discussed, reported on, modified, or approved  
31 at the meeting has been implemented to the extent that

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1 confidentiality of the strategic plan is no longer necessary.

2 (6) For purposes of this section, the term "strategic  
3 plan" means any record which describes actions or activities  
4 to:

5 (a) Initiate or acquire a new health service;

6 (b) Expand an existing health service;

7 (c) Acquire by purchase or lease additional  
8 facilities;

9 (d) Expand existing facilities;

10 (e) Change all or part of the use of an existing  
11 facility or a newly acquired facility;

12 (f) Acquire, merge, or consolidate with another health  
13 care facility or health care provider;

14 (g) Enter into a shared service arrangement with  
15 another health care provider;

16 (h) Enter into or terminate a joint venture or a  
17 transaction permitted by s. 155.40; or

18 (i) Any combination of paragraphs (a)-(i);

19

20 The term "strategic plan" does not include records that  
21 describe the existing operations of a hospital or other  
22 health care facility which implement or execute the provisions  
23 of a strategic plan, unless disclosure of any such document  
24 would divulge any part of a strategic plan which has not been  
25 fully implemented or is a record that is otherwise exempt from  
26 the public records laws. Records that describe operations are  
27 not exempt, except as specifically provided in this section.

28 (7) A public hospital may not approve a binding  
29 agreement to sell, lease, merge, or consolidate the hospital  
30 at any closed meeting of the board. Any such approval must be  
31 made at a meeting open to the public and noticed in accordance

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1 with s. 286.011.

2           Section 2. The Legislature finds that it is a public  
3 necessity that strategic plans of public hospitals, and notes  
4 and transcripts which are recorded pursuant to section  
5 395.3035(4)(c), Florida Statutes, be confidential and exempt  
6 from the public records laws of this state. The Legislature  
7 further finds that it is a public necessity that those  
8 portions of a public hospital's governing board meeting during  
9 which a strategic plan is discussed, reported on, modified, or  
10 approved be confidential and exempt from the public meeting  
11 laws of this state. The public hospitals in this state are  
12 often the safety-net providers of health care to our less  
13 advantaged residents and visitors. Yet public hospitals,  
14 unlike most agencies that provide services to the public, must  
15 compete directly with their private-sector counterparts.  
16 Because the economic survival of Florida's public hospitals  
17 depends on their ability to obtain revenues from services they  
18 provide in competition with their private-sector counterparts,  
19 disclosure of information that puts public hospitals at a  
20 competitive disadvantage will reduce their revenues and, thus,  
21 their ability to provide medical services to the indigent. A  
22 strategic plan, as that term is defined in section  
23 395.3035(6), Florida Statutes, if released before the plan is  
24 implemented or circumstances no longer require it to remain  
25 confidential, would make it exceptionally difficult, if not  
26 impossible, for a public hospital to compete effectively in  
27 the marketplace against private hospitals whose records are  
28 not required to be open to the public. Therefore, it is a  
29 public necessity that strategic plans of public hospitals,  
30 governing board discussions of their strategic plans, and  
31 records memorializing those discussions be confidential and

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1 exempt from the public records and public meeting laws of this  
 2 state. The Legislature further finds that it is a public  
 3 necessity to clarify that the records and meetings of any  
 4 privately-operated hospital which is subject to the public  
 5 records and open meetings laws of this state are exempt in the  
 6 same manner and to the same extent as are records and meetings  
 7 of publicly-operated hospitals and as otherwise provided by  
 8 law.

9 Section 3. This act shall take effect upon becoming a  
 10 law.

11  
 12  
 13 ===== T I T L E A M E N D M E N T =====

14 And the title is amended as follows:

15 On page 1, lines 2 through 17,  
 16 remove from the title of the bill: all of said lines  
 17  
 18 and insert in lieu thereof:

19 An act relating to hospital meetings and  
 20 records; amending s. 395.3035, F.S.; defining  
 21 the term "strategic plan" for purposes of  
 22 provisions which provide for the  
 23 confidentiality of such plans and of meetings  
 24 relating thereto; providing an exemption from  
 25 open meetings requirements for meetings at  
 26 which such plans are modified or approved by  
 27 the hospital's governing board; providing for  
 28 future review and repeal; providing conditions  
 29 for the early release of transcripts of  
 30 meetings at which such plans are discussed;  
 31 prohibiting public hospitals from taking

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certain specified actions at closed meetings;  
requiring certain notice; providing a finding  
of public necessity; providing an effective  
date.