

Bill No. CS/HB 339, 2nd Eng.

Amendment No.      Barcode 493590

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| <u>Senate</u> | CHAMBER ACTION | <u>House</u> |
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Senator Klein moved the following substitute for amendment (880602):

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause

and insert:

Section 1. The certificate-of-need workgroup created by section 15 of Chapter 2000-318, Laws of Florida, shall include in its report the issue of access to open heart surgery services in areas currently lacking programs or deemed underserved. In evaluating access to open heart surgery, the work group shall consider the restriction of angioplasty to hospitals providing open heart surgery and recommend ways to improve access to primary angioplasty while assuring patient safety and quality of care. The workgroup shall submit its final recommendations on or before January 1, 2002.

Section 2. Paragraph (r) is added to subsection (3) of section 408.036, Florida Statutes, to read:

408.036 Projects subject to review.--

(3) EXEMPTIONS.--Upon request, the following projects

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1 are subject to exemption from the provisions of subsection  
2 (1):

3 (r) For the conversion or hospital-based Medicare and  
4 Medicaid certified skilled nursing beds to acute care beds, if  
5 the conversion does not involve the construction of new  
6 facilities.

7 Section 3. Paragraph (c) of subsection (5) of section  
8 408.039, Florida Statutes, is amended to read:

9 408.039 Review process.--The review process for  
10 certificates of need shall be as follows:

11 (5) ADMINISTRATIVE HEARINGS.--

12 (c) In administrative proceedings challenging the  
13 issuance or denial of a certificate of need, only applicants  
14 considered by the agency in the same batching cycle are  
15 entitled to a comparative hearing on their applications.  
16 Existing health care facilities may initiate or intervene in  
17 an administrative hearing only upon a showing that an  
18 established program will be substantially affected by the  
19 issuance of any certificate of need, whether reviewed under s.  
20 408.036(1) or (2), to a competing proposed facility or program  
21 within the same district. Any party challenging a final order  
22 approving or denying a certificate of need in a judicial  
23 action shall place in escrow an amount equal to the proposed  
24 project cost or \$500,000, whichever amount is less. If any  
25 party challenging a final order fails in the challenge, that  
26 party shall pay all costs of litigation, including treble  
27 attorney fees, of the party that was issued the certificate of  
28 need. Such amounts shall be taken first from the escrow  
29 account established for this purpose, the balance to be  
30 considered enforceable as an obligation created by final order  
31 of the agency. The challenging facility may satisfy the escrow

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1 requirement with a bond of sufficient type and amount.

2 Section 4. Effective July 1, 2001, section 15 of  
3 chapter 2000-318, Laws of Florida, is amended to read:

4 Section 15.

5 (1)(a) There is created a certificate-of-need  
6 workgroup staffed by the Agency for Health Care  
7 Administration.

8 (b) Workgroup participants shall be responsible for  
9 only the expenses that they generate individually through  
10 workgroup participation. The agency shall be responsible for  
11 expenses incidental to the production of any required data or  
12 reports.

13 (2) The workgroup shall consist of 7 ~~30~~ members, ~~10~~  
14 ~~appointed by the Governor, 10 appointed by the President of~~  
15 ~~the Senate, and 10 appointed by the Speaker of the House of~~  
16 ~~Representatives.~~ The Governor shall appoint 1 member  
17 representing hospitals, 1 member representing hospice, 1  
18 member representing nursing homes, and 2 members representing  
19 the Agency for Health Care Administration. The President of  
20 the Senate shall appoint 1 member of the Senate. The Speaker  
21 of the House of Representatives shall appoint 1 member of the  
22 House of Representatives. ~~The workgroup chairperson shall be~~  
23 ~~selected by majority vote of a quorum present. Four ~~Sixteen~~~~  
24 ~~members shall constitute a quorum. ~~The membership shall~~~~  
25 ~~include, but not be limited to, representatives from health~~  
26 ~~care provider organizations, health care facilities,~~  
27 ~~individual health care practitioners, local health councils,~~  
28 ~~and consumer organizations, and persons with health care~~  
29 ~~market expertise as a private-sector consultant.~~

30 ~~(3) Appointment to the workgroup shall be as follows:~~

31 ~~(a) The Governor shall appoint one representative each~~

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1 ~~from the hospital industry; nursing home industry; hospice~~  
2 ~~industry; local health councils; a consumer organization; and~~  
3 ~~three health care market consultants, one of whom is a~~  
4 ~~recognized expert on hospital markets, one of whom is a~~  
5 ~~recognized expert on nursing home or long-term care markets,~~  
6 ~~and one of whom is a recognized expert on hospice markets; one~~  
7 ~~representative from the Medicaid program; and one~~  
8 ~~representative from a health care facility that provides a~~  
9 ~~tertiary service.~~

10 ~~(b) The President of the Senate shall appoint a~~  
11 ~~representative of a for-profit hospital, a representative of a~~  
12 ~~not-for-profit hospital, a representative of a public~~  
13 ~~hospital, two representatives of the nursing home industry,~~  
14 ~~two representatives of the hospice industry, a representative~~  
15 ~~of a consumer organization, a representative from the~~  
16 ~~Department of Elderly Affairs involved with the implementation~~  
17 ~~of a long-term care community diversion program, and a health~~  
18 ~~care market consultant with expertise in health care~~  
19 ~~economics.~~

20 ~~(c) The Speaker of the House of Representatives shall~~  
21 ~~appoint a representative from the Florida Hospital~~  
22 ~~Association, a representative of the Association of Community~~  
23 ~~Hospitals and Health Systems of Florida, a representative of~~  
24 ~~the Florida League of Health Systems, a representative of the~~  
25 ~~Florida Health Care Association, a representative of the~~  
26 ~~Florida Association of Homes for the Aging, three~~  
27 ~~representatives of Florida Hospices and Palliative Care, one~~  
28 ~~representative of local health councils, and one~~  
29 ~~representative of a consumer organization.~~

30 (4) The workgroup shall develop a plan for the reform  
31 or elimination of the certificate of need program, which shall

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1 include recommendations for required legislative action and  
2 agency rule making. Such plan shall be implemented not sooner  
3 than the effective date of any rules necessary for its  
4 implementation. In developing the plan, the workgroup shall  
5 seek input from all classes of health care consumers, health  
6 care providers and health care facilities subject to  
7 certificate of need review. All agencies, including, but not  
8 limited to, the Agency for Health Care Administration and the  
9 Department of Elder Affairs, shall provide assistance to the  
10 workgroup, upon request.~~The workgroup shall study issues~~  
11 ~~pertaining to the certificate-of-need program, including the~~  
12 ~~impact of trends in health care delivery and financing. The~~  
13 ~~workgroup shall study issues relating to implementation of the~~  
14 ~~certificate-of-need program.~~

15 (5) ~~The workgroup shall meet at least annually, at the~~  
16 ~~request of the chairperson. The workgroup shall submit an~~  
17 ~~interim report by December 31, 2001, and a final report by~~  
18 ~~December 31, 2002.~~The workgroup is abolished effective July  
19 1, 2003.

20 Section 5. This act shall take effect upon becoming a  
21 law.

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24 ===== T I T L E A M E N D M E N T =====

25 And the title is amended as follows:

26 Delete everything before the enacting clause

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28

and insert:

29 A bill to be entitled  
30 An act relating to certificate of need;  
31 requiring the certificate-of-need workgroup to

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1 address open heart surgery services in its  
2 report; requiring final recommendations to be  
3 submitted by January 1, 2002; amending s.  
4 408.036, F.S.; providing an exemption from  
5 review for the conversion of certain skilled  
6 nursing beds to acute care beds; amending s.  
7 408.039, F.S.; revising the review process for  
8 certificates of need; amending s. 15 of ch.  
9 2000-318, Laws of Florida; providing for  
10 membership of the certificate-of-need  
11 workgroup; amending the scope of responsibility  
12 for the workgroup; providing an effective date.  
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