

Amendment No. \_\_\_\_ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

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11 Representative(s) Cantens offered the following:

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13 **Amendment (with title amendment)**

14 On page 11, between lines 20 and 21, of the bill

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16 insert:

17 Section 6. Paragraph (c) of subsection (5) of section  
18 408.039, Florida Statutes, is amended to read:

19 408.039 Review process.--The review process for  
20 certificates of need shall be as follows:

21 (5) ADMINISTRATIVE HEARINGS.--

22 (c) In administrative proceedings challenging the  
23 issuance or denial of a certificate of need, only applicants  
24 considered by the agency in the same batching cycle are  
25 entitled to a comparative hearing on their applications.

26 Existing health care facilities may initiate or intervene in  
27 an administrative hearing only upon a showing that ~~an~~  
28 ~~established program will be substantially affected by the~~  
29 issuance of any certificate of need, whether reviewed under s.  
30 408.036(1) or (2), to a competing proposed facility or program  
31 within the same district will create a substantial likelihood

1 that an established program will be forced into imminent  
 2 closure. An existing facility seeking to initiate or intervene  
 3 in such proceeding shall be required to place in escrow an  
 4 amount equal to the proposed project cost, but in no case less  
 5 than \$500,000. Should the challenge to a certificate of need  
 6 application fail, and the application be approved by final  
 7 order not subject to appeal, the challenging existing facility  
 8 shall pay all costs of litigation, including attorney fees, as  
 9 well as the value of net revenues lost due to the delay in  
 10 implementation of the proposed project caused by such  
 11 litigation, to be determined by an administrative law judge of  
 12 the Division of Administrative Hearings. Such amounts shall be  
 13 taken first from the escrow account established for this  
 14 purpose, the balance to be considered enforceable as an  
 15 obligation created by final order of the agency. The  
 16 challenging facility may satisfy the escrow requirement with a  
 17 bond of sufficient type and amount.

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

21 And the title is amended as follows:

22            On page 1, line 17, after the semicolon

23

24 insert:

25            amending s. 408.039, F.S.; revising conditions  
 26            under which existing health care facilities may  
 27            initiate or intervene in an administrative  
 28            hearing to challenge the issuance or denial of  
 29            a certificate of need; providing requirements  
 30            for such facilities; requiring such facilities  
 31            to pay specified costs under certain

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