

Bill No. SB 968

Amendment No. Barcode 281412

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Klein moved the following substitute for amendment to amendment (381218):

Senate Amendment (with title amendment)

On page 1, line 23, after the period

insert:

Section 2. Paragraph (c) of subsection (5) of section 408.039, Florida Statutes, is amended to read:

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

(5) ADMINISTRATIVE HEARINGS.--

(c) In administrative proceedings challenging the issuance or denial of a certificate of need, only applicants considered by the agency in the same batching cycle are entitled to a comparative hearing on their applications. Existing health care facilities may initiate or intervene in an administrative hearing only upon a showing that an established program will be substantially affected by the issuance of any certificate of need, whether reviewed under s. 408.036(1) or (2), to a competing proposed facility or program

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1 within the same district. Any party appealing a final order
2 approving or denying a certificate of need to a district court
3 of appeal shall place in escrow an amount equal to the
4 proposed project cost or \$500,000, whichever amount is less.
5 If any party appealing a final order fails in the appeal, that
6 party shall pay all costs of litigation, including treble
7 attorney fees, of the prevailing party. The Agency for
8 Healthcare Administration shall not be subject to the
9 provisions of this paragraph except that it shall be entitled
10 to all costs of litigation, including treble attorney fees if
11 it is the prevailing party in an appeal of a final order. Such
12 amounts shall be taken first from the escrow account
13 established for this purpose, the balance to be considered
14 enforceable as an obligation created by final order of the
15 agency. The challenging facility may satisfy the escrow
16 requirement with a bond of sufficient type and amount.

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

19 Section 15.

20 (1)(a) There is created a certificate-of-need
21 workgroup staffed by the Agency for Health Care
22 Administration.

23 (b) Workgroup participants shall be responsible for
24 only the expenses that they generate individually through
25 workgroup participation. The agency shall be responsible for
26 expenses incidental to the production of any required data or
27 reports.

28 (2) The workgroup shall consist of 32 ~~30~~ members, 10
29 appointed by the Governor, 11 ~~10~~ appointed by the President of
30 the Senate, and 11 ~~10~~ appointed by the Speaker of the House of
31 Representatives. The workgroup chairperson shall be selected

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1 by majority vote of a quorum present. Sixteen members shall
2 constitute a quorum. The membership shall include, but not be
3 limited to, representatives from health care provider
4 organizations, health care facilities, individual health care
5 practitioners, local health councils, and consumer
6 organizations, and persons with health care market expertise
7 as a private-sector consultant.

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

9 (a) The Governor shall appoint one representative each
10 from the hospital industry; nursing home industry; hospice
11 industry; local health councils; a consumer organization; and
12 three health care market consultants, one of whom is a
13 recognized expert on hospital markets, one of whom is a
14 recognized expert on nursing home or long-term-care markets,
15 and one of whom is a recognized expert on hospice markets; one
16 representative from the Medicaid program; and one
17 representative from a health care facility that provides a
18 tertiary service.

19 (b) The President of the Senate shall appoint a
20 representative of a for-profit hospital, a representative of a
21 not-for-profit hospital, a representative of a public
22 hospital, two representatives of the nursing home industry,
23 two representatives of the hospice industry, a representative
24 of a consumer organization, a representative from the
25 Department of Elderly Affairs involved with the implementation
26 of a long-term-care community diversion program, ~~and~~ a health
27 care market consultant with expertise in health care
28 economics, and a member of the Senate.

29 (c) The Speaker of the House of Representatives shall
30 appoint a representative from the Florida Hospital
31 Association, a representative of the Association of Community

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1 Hospitals and Health Systems of Florida, a representative of
2 the Florida League of Health Systems, a representative of the
3 Florida Health Care Association, a representative of the
4 Florida Association of Homes for the Aging, three
5 representatives of Florida Hospices and Palliative Care, one
6 representative of local health councils, ~~and~~ one
7 representative of a consumer organization, and a member of the
8 House.

9 (4) The workgroup shall develop a plan for the reform
10 or elimination of the certificate of need program, which shall
11 include recommendations for required legislative action and
12 agency rule making. Such plan shall be implemented not sooner
13 than the effective date of any rules necessary for its
14 implementation. In developing the plan, the workgroup shall
15 seek input from all classes of health care consumers, health
16 care providers and health care facilities subject to
17 certificate of need review. All agencies, including, but not
18 limited to, the Agency for Health Care Administration and the
19 Department of Elder Affairs, shall provide assistance to the
20 workgroup, upon request.~~The workgroup shall study issues~~
21 ~~pertaining to the certificate-of-need program, including the~~
22 ~~impact of trends in health care delivery and financing. The~~
23 ~~workgroup shall study issues relating to implementation of the~~
24 ~~certificate-of-need program.~~

25 (5) ~~The workgroup shall meet at least annually, at the~~
26 ~~request of the chairperson. The workgroup shall submit an~~
27 ~~interim report by December 31, 2001, and a final report by~~
28 ~~December 31, 2002.~~The workgroup is abolished effective July
29 1, 2003.

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31 (Redesignate subsequent sections.)

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

2 And the title is amended as follows:

3 On page 2, line 3, after the semicolon

4

5 insert:

6 amending s. 408.039, F.S.; revising the review

7 process for certificates of need; amending s.

8 15 of ch. 2000-318, Laws of Florida; providing

9 for additional appointments to the

10 certificate-of-need workgroup; amending the

11 scope of responsibility for the workgroup;

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