

Bill No. SB 968

Amendment No.      Barcode 363542

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senators Clary and Klein moved the following amendment to amendment (763044):

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

19  
20 (Redesignate subsequent sections.)

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

24 And the title is amended as follows:

25 On page 2, line 3, after the semicolon

26  
27 insert:

28 amending s. 408.039, F.S.; revising the review  
29 process for certificates of need;

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