

Bill No. CS for CS for SB 1252, 1st Eng.

Amendment No. \_\_\_\_ Barcode 394936

CHAMBER ACTION

Senate

House

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Senator Bennett moved the following amendment:

**Senate Amendment (with title amendment)**

On page 9, line 28, through  
page 30, line 15, delete those lines

and insert:

Section 6. Subsection (5) of section 408.034, Florida Statutes, is amended to read:

408.034 Duties and responsibilities of agency;  
rules.--

(5) The agency shall establish by rule a nursing-home-bed-need methodology that has a goal of maintaining a district average occupancy rate of 94 percent and that reduces the community nursing home bed need for the areas of the state where the agency establishes pilot community diversion programs through the Title XIX aging waiver program.

Section 7. Subsections (2) and (3) of section 408.036, Florida Statutes, are amended to read:

408.036 Projects subject to review; exemptions.--

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1           (2) PROJECTS SUBJECT TO EXPEDITED REVIEW.--Unless  
2 exempt pursuant to subsection (3), projects subject to an  
3 expedited review shall include, but not be limited to:  
4           (a) Research, education, and training programs.  
5           (b) Shared services contracts or projects.  
6           (c) A transfer of a certificate of need.  
7           (d) A 50-percent increase in nursing home beds for a  
8 facility incorporated and operating in this state for at least  
9 60 years on or before July 1, 1988, which has a licensed  
10 nursing home facility located on a campus providing a variety  
11 of residential settings and supportive services. The  
12 increased nursing home beds shall be for the exclusive use of  
13 the campus residents. Any application on behalf of an  
14 applicant meeting this requirement shall be subject to the  
15 base fee of \$5,000 provided in s. 408.038.

16           (e) Replacement of a health care facility when the  
17 proposed project site is located in the same district and  
18 within a 1-mile radius of the replaced health care facility.

19           (f) The conversion of mental health services beds  
20 licensed under chapter 395 or hospital-based distinct part  
21 skilled nursing unit beds to general acute care beds; the  
22 conversion of mental health services beds between or among the  
23 licensed bed categories defined as beds for mental health  
24 services; or the conversion of general acute care beds to beds  
25 for mental health services.

26           1. Conversion under this paragraph shall not establish  
27 a new licensed bed category at the hospital but shall apply  
28 only to categories of beds licensed at that hospital.

29           2. Beds converted under this paragraph must be  
30 licensed and operational for at least 12 months before the  
31 hospital may apply for additional conversion affecting beds of

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1 the same type.

2       (g) Replacement of a nursing home within the same  
3 district provided the proposed project site is located within  
4 a geographic area that contains at least 65 percent of the  
5 facilities current residents and is within a 30-mile radius of  
6 the replaced nursing home.

7       (h) Relocation of a portion of a nursing home's  
8 licensed beds to a replacement facility within the same  
9 district provided the relocation is within a 30-mile radius of  
10 the existing facility and the total number of nursing home  
11 beds in the district does not increase.

12

13 The agency shall develop rules to implement the provisions for  
14 expedited review, including time schedule, application content  
15 which may be reduced from the full requirements of s.  
16 408.037(1), and application processing.

17       (3) EXEMPTIONS.--Upon request, the following projects  
18 are subject to exemption from the provisions of subsection  
19 (1):

20       (a) For replacement of a licensed health care facility  
21 on the same site, provided that the number of beds in each  
22 licensed bed category will not increase.

23       (b) For hospice services or for swing beds in a rural  
24 hospital, as defined in s. 395.602, in a number that does not  
25 exceed one-half of its licensed beds.

26       (c) For the conversion of licensed acute care hospital  
27 beds to Medicare and Medicaid certified skilled nursing beds  
28 in a rural hospital, as defined in s. 395.602, so long as the  
29 conversion of the beds does not involve the construction of  
30 new facilities. The total number of skilled nursing beds,  
31 including swing beds, may not exceed one-half of the total

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1 number of licensed beds in the rural hospital as of July 1,  
2 1993. Certified skilled nursing beds designated under this  
3 paragraph, excluding swing beds, shall be included in the  
4 community nursing home bed inventory. A rural hospital which  
5 subsequently decertifies any acute care beds exempted under  
6 this paragraph shall notify the agency of the decertification,  
7 and the agency shall adjust the community nursing home bed  
8 inventory accordingly.

9 (d) For the addition of nursing home beds at a skilled  
10 nursing facility that is part of a retirement community that  
11 provides a variety of residential settings and supportive  
12 services and that has been incorporated and operated in this  
13 state for at least 65 years on or before July 1, 1994. All  
14 nursing home beds must not be available to the public but must  
15 be for the exclusive use of the community residents.

16 (e) For an increase in the bed capacity of a nursing  
17 facility licensed for at least 50 beds as of January 1, 1994,  
18 under part II of chapter 400 which is not part of a continuing  
19 care facility if, after the increase, the total licensed bed  
20 capacity of that facility is not more than 60 beds and if the  
21 facility has been continuously licensed since 1950 and has  
22 received a superior rating on each of its two most recent  
23 licensure surveys.

24 (f) For an inmate health care facility built by or for  
25 the exclusive use of the Department of Corrections as provided  
26 in chapter 945. This exemption expires when such facility is  
27 converted to other uses.

28 (g) For the termination of an inpatient health care  
29 service, upon 30 days' written notice to the agency.

30 (h) For the delicensure of beds, upon 30 days' written  
31 notice to the agency. A request for exemption submitted under

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1 this paragraph must identify the number, the category of beds,  
2 and the name of the facility in which the beds to be  
3 delicensed are located.

4 (i) For the provision of adult inpatient diagnostic  
5 cardiac catheterization services in a hospital.

6 1. In addition to any other documentation otherwise  
7 required by the agency, a request for an exemption submitted  
8 under this paragraph must comply with the following criteria:

9 a. The applicant must certify it will not provide  
10 therapeutic cardiac catheterization pursuant to the grant of  
11 the exemption.

12 b. The applicant must certify it will meet and  
13 continuously maintain the minimum licensure requirements  
14 adopted by the agency governing such programs pursuant to  
15 subparagraph 2.

16 c. The applicant must certify it will provide a  
17 minimum of 2 percent of its services to charity and Medicaid  
18 patients.

19 2. The agency shall adopt licensure requirements by  
20 rule which govern the operation of adult inpatient diagnostic  
21 cardiac catheterization programs established pursuant to the  
22 exemption provided in this paragraph. The rules shall ensure  
23 that such programs:

24 a. Perform only adult inpatient diagnostic cardiac  
25 catheterization services authorized by the exemption and will  
26 not provide therapeutic cardiac catheterization or any other  
27 services not authorized by the exemption.

28 b. Maintain sufficient appropriate equipment and  
29 health personnel to ensure quality and safety.

30 c. Maintain appropriate times of operation and  
31 protocols to ensure availability and appropriate referrals in

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1 the event of emergencies.

2 d. Maintain appropriate program volumes to ensure  
3 quality and safety.

4 e. Provide a minimum of 2 percent of its services to  
5 charity and Medicaid patients each year.

6 3.a. The exemption provided by this paragraph shall  
7 not apply unless the agency determines that the program is in  
8 compliance with the requirements of subparagraph 1. and that  
9 the program will, after beginning operation, continuously  
10 comply with the rules adopted pursuant to subparagraph 2. The  
11 agency shall monitor such programs to ensure compliance with  
12 the requirements of subparagraph 2.

13 b.(I) The exemption for a program shall expire  
14 immediately when the program fails to comply with the rules  
15 adopted pursuant to sub-subparagraphs 2.a., b., and c.

16 (II) Beginning 18 months after a program first begins  
17 treating patients, the exemption for a program shall expire  
18 when the program fails to comply with the rules adopted  
19 pursuant to sub-subparagraphs 2.d. and e.

20 (III) If the exemption for a program expires pursuant  
21 to sub-sub-subparagraph (I) or sub-sub-subparagraph (II), the  
22 agency shall not grant an exemption pursuant to this paragraph  
23 for an adult inpatient diagnostic cardiac catheterization  
24 program located at the same hospital until 2 years following  
25 the date of the determination by the agency that the program  
26 failed to comply with the rules adopted pursuant to  
27 subparagraph 2.

28 (j) For mobile surgical facilities and related health  
29 care services provided under contract with the Department of  
30 Corrections or a private correctional facility operating  
31 pursuant to chapter 957.

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1           (k) For state veterans' nursing homes operated by or  
2 on behalf of the Florida Department of Veterans' Affairs in  
3 accordance with part II of chapter 296 for which at least 50  
4 percent of the construction cost is federally funded and for  
5 which the Federal Government pays a per diem rate not to  
6 exceed one-half of the cost of the veterans' care in such  
7 state nursing homes. These beds shall not be included in the  
8 nursing home bed inventory.

9           (l) For combination within one nursing home facility  
10 of the beds or services authorized by two or more certificates  
11 of need issued in the same planning subdistrict. An exemption  
12 granted under this paragraph shall extend the validity period  
13 of the certificates of need to be consolidated by the length  
14 of the period beginning upon submission of the exemption  
15 request and ending with issuance of the exemption. The  
16 longest validity period among the certificates shall be  
17 applicable to each of the combined certificates.

18           (m) For division into two or more nursing home  
19 facilities of beds or services authorized by one certificate  
20 of need issued in the same planning subdistrict. An exemption  
21 granted under this paragraph shall extend the validity period  
22 of the certificate of need to be divided by the length of the  
23 period beginning upon submission of the exemption request and  
24 ending with issuance of the exemption.

25           (n) For the addition of hospital beds licensed under  
26 chapter 395 for acute care, mental health services, or a  
27 hospital-based distinct part skilled nursing unit in a number  
28 that may not exceed 10 total beds or 10 percent of the  
29 licensed capacity of the bed category being expanded,  
30 whichever is greater. Beds for specialty burn units, neonatal  
31 intensive care units, or comprehensive rehabilitation, or at a

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1 long-term care hospital, may not be increased under this  
2 paragraph.

3 1. In addition to any other documentation otherwise  
4 required by the agency, a request for exemption submitted  
5 under this paragraph must:

6 a. Certify that the prior 12-month average occupancy  
7 rate for the category of licensed beds being expanded at the  
8 facility meets or exceeds 80 percent or, for a hospital-based  
9 distinct part skilled nursing unit, the prior 12-month average  
10 occupancy rate meets or exceeds 96 percent.

11 b. Certify that any beds of the same type authorized  
12 for the facility under this paragraph before the date of the  
13 current request for an exemption have been licensed and  
14 operational for at least 12 months.

15 2. The timeframes and monitoring process specified in  
16 s. 408.040(2)(a)-(c) apply to any exemption issued under this  
17 paragraph.

18 3. The agency shall count beds authorized under this  
19 paragraph as approved beds in the published inventory of  
20 hospital beds until the beds are licensed.

21 (o) For the addition of acute care beds, as authorized  
22 by rule consistent with s. 395.003(4), in a number that may  
23 not exceed 10 total beds or 10 percent of licensed bed  
24 capacity, whichever is greater, for temporary beds in a  
25 hospital that has experienced high seasonal occupancy within  
26 the prior 12-month period or in a hospital that must respond  
27 to emergency circumstances.

28 (p) For the addition of nursing home beds licensed  
29 under chapter 400 in a number not exceeding 10 total beds or  
30 10 percent of the number of beds licensed in the facility  
31 being expanded, whichever is greater.



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1           1. In addition to any other documentation required by  
2 the agency, a request for exemption submitted under this  
3 paragraph must:

4           a. ~~Effective until June 30, 2001,~~ Certify that the  
5 facility has not had any class I or class II deficiencies  
6 within the 30 months preceding the request for addition.

7           b. ~~Effective on July 1, 2001, certify that the~~  
8 ~~facility has been designated as a Gold Seal nursing home under~~  
9 ~~s. 400.235.~~

10           **b.c.** Certify that the prior 12-month average occupancy  
11 rate for the nursing home beds at the facility meets or  
12 exceeds 96 percent.

13           **c.d.** Certify that any beds authorized for the facility  
14 under this paragraph before the date of the current request  
15 for an exemption have been licensed and operational for at  
16 least 12 months.

17           2. The timeframes and monitoring process specified in  
18 s. 408.040(2)(a)-(c) apply to any exemption issued under this  
19 paragraph.

20           3. The agency shall count beds authorized under this  
21 paragraph as approved beds in the published inventory of  
22 nursing home beds until the beds are licensed.

23           (q) For establishment of a specialty hospital offering  
24 a range of medical service restricted to a defined age or  
25 gender group of the population or a restricted range of  
26 services appropriate to the diagnosis, care, and treatment of  
27 patients with specific categories of medical illnesses or  
28 disorders, through the transfer of beds and services from an  
29 existing hospital in the same county.

30           (r) For the conversion of hospital-based Medicare and  
31 Medicaid certified skilled nursing beds to acute care beds, if

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1 the conversion does not involve the construction of new  
2 facilities.

3 (s) For fiscal year 2001-2002 only, for transfer by a  
4 health care system of existing services and not more than 100  
5 licensed and approved beds from a hospital in district 1,  
6 subdistrict 1, to another location within the same subdistrict  
7 in order to establish a satellite facility that will improve  
8 access to outpatient and inpatient care for residents of the  
9 district and subdistrict and that will use new medical  
10 technologies, including advanced diagnostics, computer  
11 assisted imaging, and telemedicine to improve care. This  
12 paragraph is repealed on July 1, 2002.

13 (t) For replacement of a licensed nursing home on the  
14 same site, or within 3 miles of the same site, provided the  
15 number of licensed beds does not increase.

16 (u) For consolidation or combination of licensed  
17 nursing homes or transfer of beds between licensed nursing  
18 homes within the same district, by providers that operate  
19 multiple nursing homes within that district, provided there is  
20 no increase in the district total of nursing home beds and the  
21 relocation does not exceed 30 miles from the original  
22 location.

23 Section 8. Paragraph (c) of subsection (1) of section  
24 408.037, Florida Statutes, is amended to read:

25 408.037 Application content.--

26 (1) An application for a certificate of need must  
27 contain:

28 (c) An audited financial statement of the applicant,  
29 or an audited financial statement of the parent company if the  
30 applicant is included in a parent company's consolidated audit  
31 which details each entity separately. In an application

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1 submitted by an existing health care facility, health  
2 maintenance organization, or hospice, financial condition  
3 documentation must include, but need not be limited to, a  
4 balance sheet and a profit-and-loss statement of the 2  
5 previous fiscal years' operation.

6  
7 (Redesignate subsequent sections.)

8  
9

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

11 And the title is amended as follows:

12 On page 2, line 8, through  
13 page 3, line 11, delete those lines

14  
15 and insert:

16 nursing home facility; amending s. 408.034,  
17 F.S.; specifying the district average occupancy  
18 rate in the agency's rulemaking authority for  
19 nursing-home-bed-need methodology; amending s.  
20 408.036, F.S.; providing for additional  
21 projects that are subject to expedited review;  
22 establishing the agency's rulemaking authority  
23 to implement provisions for expedited review;  
24 deleting obsolete dates; providing for  
25 additional projects that are exempt from  
26 review; amending s. 408.037, F.S.; providing  
27 that an audited financial statement of the  
28 parent company may be used to fulfill an  
29 application for a certificate of need;

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