

By Senator Saunders

37-696A-03

1 A bill to be entitled
2 An act relating to certificates of need;
3 amending s. 408.032, F.S.; redefining the term
4 "tertiary health service," as used in the
5 Health Facility and Services Development Act,
6 to include open-heart surgery; amending s.
7 408.036, F.S.; amending provisions specifying
8 which health-care-related projects are subject
9 to review and must file an application for a
10 certificate of need; exempting certain projects
11 from review, including the provision of
12 percutaneous coronary intervention, in
13 specified circumstances; providing for the
14 expiration of such an exemption and for
15 postponement of the renewal of the exemption,
16 as specified; providing additional exemptions;
17 amending s. 408.038, F.S.; providing increases
18 in fees for certificate-of-need applications;
19 providing for uses of the increased revenues;
20 amending s. 408.039, F.S.; amending the review
21 process for certificates of need; providing for
22 automatic approval if the Agency for Health
23 Care Administration does not issue a final
24 order within a specified time; providing that a
25 court must require the losing party to pay
26 attorney's fees and costs of the prevailing
27 party in certain circumstances; creating the
28 Hospital Statutory and Regulatory Reform
29 Council; providing legislative intent;
30 providing for membership and duties of the
31 council; providing an effective date.

1 Be It Enacted by the Legislature of the State of Florida:

2
3 Section 1. Subsection (17) of section 408.032, Florida
4 Statutes, is amended to read:

5 408.032 Definitions relating to Health Facility and
6 Services Development Act.--As used in ss. 408.031-408.045, the
7 term:

8 (17) "Tertiary health service" means a health service
9 which, due to its high level of intensity, complexity,
10 specialized or limited applicability, and cost, should be
11 limited to, and concentrated in, a limited number of hospitals
12 to ensure the quality, availability, and cost-effectiveness of
13 such service. Examples of such service include, but are not
14 limited to, organ transplantation, adult and pediatric
15 open-heart surgery, specialty burn units, neonatal intensive
16 care units, comprehensive rehabilitation, and medical or
17 surgical services which are experimental or developmental in
18 nature to the extent that the provision of such services is
19 not yet contemplated within the commonly accepted course of
20 diagnosis or treatment for the condition addressed by a given
21 service. The agency shall establish by rule a list of all
22 tertiary health services.

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

25 408.036 Projects subject to review; exemptions.--

26 (2) PROJECTS SUBJECT TO EXPEDITED REVIEW.--Unless
27 exempt pursuant to subsection (3), projects subject to an
28 expedited review ~~shall~~ include, but are not ~~be~~ limited to:

29 (a) Research, education, and training programs.

30 ~~(b) Shared services contracts or projects.~~

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1 **(b)**~~(c)~~ A transfer of a certificate of need, except
2 that a purchaser who acquires an existing hospital also
3 acquires all pending certificates of need filed by the
4 existing hospital and all approved certificates of need owned
5 by that hospital.

6 **(c)**~~(d)~~ A 50-percent increase in nursing home beds for
7 a facility incorporated and operating in this state for at
8 least 60 years on or before July 1, 1988, which has a licensed
9 nursing home facility located on a campus providing a variety
10 of residential settings and supportive services. The
11 increased nursing home beds shall be for the exclusive use of
12 the campus residents. Any application on behalf of an
13 applicant meeting this requirement shall be subject to the
14 base fee of \$5,000 provided in s. 408.038.

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

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

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

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

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2 The agency shall develop rules to implement the provisions for
3 expedited review, including time schedule, application content
4 which may be reduced from the full requirements of s.
5 408.037(1), and application processing.

6 (3) EXEMPTIONS.--Upon request, the following projects
7 are subject to exemption from the provisions of subsection
8 (1):

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

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

15 (c) For the conversion of licensed acute care hospital
16 beds to Medicare and Medicaid certified skilled nursing beds
17 in a rural hospital, as defined in s. 395.602, so long as the
18 conversion of the beds does not involve the construction of
19 new facilities. The total number of skilled nursing beds,
20 including swing beds, may not exceed one-half of the total
21 number of licensed beds in the rural hospital as of July 1,
22 1993. Certified skilled nursing beds designated under this
23 paragraph, excluding swing beds, shall be included in the
24 community nursing home bed inventory. A rural hospital which
25 subsequently decertifies any acute care beds exempted under
26 this paragraph shall notify the agency of the decertification,
27 and the agency shall adjust the community nursing home bed
28 inventory accordingly.

29 (d) For the addition of nursing home beds at a skilled
30 nursing facility that is part of a retirement community that
31 provides a variety of residential settings and supportive

1 services and that has been incorporated and operated in this
2 state for at least 65 years on or before July 1, 1994. All
3 nursing home beds must not be available to the public but must
4 be for the exclusive use of the community residents.

5 (e) For an increase in the bed capacity of a nursing
6 facility licensed for at least 50 beds as of January 1, 1994,
7 under part II of chapter 400 which is not part of a continuing
8 care facility if, after the increase, the total licensed bed
9 capacity of that facility is not more than 60 beds and if the
10 facility has been continuously licensed since 1950 and has
11 received a superior rating on each of its two most recent
12 licensure surveys.

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

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

19 (h) For the delicensure of beds, upon 30 days' written
20 notice to the agency. A request for exemption submitted under
21 this paragraph must identify the number, the category of beds,
22 and the name of the facility in which the beds to be
23 delicensed are located.

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

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

29 a. The applicant must certify it will not provide
30 therapeutic cardiac catheterization pursuant to the grant of
31 the exemption.

1 b. The applicant must certify it will meet and
2 continuously maintain the minimum licensure requirements
3 adopted by the agency governing such programs pursuant to
4 subparagraph 2.

5 c. The applicant must certify it will provide a
6 minimum of 2 percent of its services to charity and Medicaid
7 patients.

8 2. The agency shall adopt licensure requirements by
9 rule which govern the operation of adult inpatient diagnostic
10 cardiac catheterization programs established pursuant to the
11 exemption provided in this paragraph. The rules shall ensure
12 that such programs:

13 a. Perform only adult inpatient diagnostic cardiac
14 catheterization services authorized by the exemption and will
15 not provide therapeutic cardiac catheterization or any other
16 services not authorized by the exemption.

17 b. Maintain sufficient appropriate equipment and
18 health personnel to ensure quality and safety.

19 c. Maintain appropriate times of operation and
20 protocols to ensure availability and appropriate referrals in
21 the event of emergencies.

22 d. Maintain appropriate program volumes to ensure
23 quality and safety.

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

26 3.a. The exemption provided by this paragraph shall
27 not apply unless the agency determines that the program is in
28 compliance with the requirements of subparagraph 1. and that
29 the program will, after beginning operation, continuously
30 comply with the rules adopted pursuant to subparagraph 2. The
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1 agency shall monitor such programs to ensure compliance with
2 the requirements of subparagraph 2.

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

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

10 (III) If the exemption for a program expires pursuant
11 to sub-sub-subparagraph (I) or sub-sub-subparagraph (II), the
12 agency shall not grant an exemption pursuant to this paragraph
13 for an adult inpatient diagnostic cardiac catheterization
14 program located at the same hospital until 2 years following
15 the date of the determination by the agency that the program
16 failed to comply with the rules adopted pursuant to
17 subparagraph 2.

18 (j) For the provision of percutaneous coronary
19 intervention for patients presenting with emergency myocardial
20 infarctions in a hospital that does not have an approved adult
21 open-heart surgery program. In addition to any other
22 documentation otherwise required by the agency, the
23 prerequisites to a request for an exemption which is submitted
24 under this paragraph include:

25 1. The applicant must certify that it will meet and
26 continuously maintain the requirements adopted by the agency
27 for the provision of these services. These licensure
28 requirements must be adopted by rule and must be consistent
29 with the guidelines for the provision of emergency
30 percutaneous coronary interventions in hospitals that do not
31 have adult open-heart services which are published by the

1 American College of Cardiology and the American Heart
2 Association. At a minimum, the rules must provide that:
3 a. Cardiologists must be experienced
4 interventionalists who have performed a minimum of 75
5 interventions within the previous 12 months.
6 b. The hospital must provide a minimum of 36 emergency
7 interventions annually, in order to continue to provide the
8 service.
9 c. The hospital must offer sufficient physician,
10 nursing, and laboratory staff to provide the services 24 hours
11 a day, 7 days a week.
12 d. Nursing and technical staff must have demonstrated
13 experience in handling acutely ill patients who require
14 intervention, which is based on previous experience in
15 dedicated interventional laboratories or surgical centers.
16 e. Cardiac care nursing staff must be adept in
17 hemodynamic monitoring and IABP (Intra-Aortic Balloon Pump)
18 management.
19 f. Formalized written transfer agreements must be
20 developed with a hospital that has an adult open-heart surgery
21 program, and written transport protocols must be in place to
22 ensure safe and efficient transfer of a patient within 60
23 minutes. Transfer and transport agreements must be reviewed
24 and tested at least every 3 months and appropriate
25 documentation must be maintained.
26 g. Hospitals that implement the service must first
27 undertake a 3 to 6-month training program that includes
28 establishing standards, testing logistics, creating
29 quality-assessment and error-management practices, and
30 formalizing patient-selection criteria.
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1 2. The applicant must certify that it will at all
2 times use the patient-selection criteria for the performance
3 of primary angioplasty at hospitals that do not have
4 open-heart surgery programs which are issued by the American
5 College of Cardiology and the American Heart Association.

6 3. The applicant must agree to submit to the agency a
7 quarterly report that details patient characteristics and
8 treatment and outcomes for all patients who receive emergency
9 percutaneous coronary interventions pursuant to this
10 exemption. The report must be submitted within 15 days after
11 the close of each calendar quarter.

12 4. The agency must have determined that the hospital
13 has taken all necessary steps to be in compliance with this
14 paragraph.

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16 An exemption provided under this paragraph expires immediately
17 if the hospital fails to meet the requirements of
18 sub-subparagraphs 1.a. and b. within 18 months after the
19 program begins offering the service or to comply continuously
20 with the rules adopted under sub-subparagraphs 1.c., d., e.,
21 and f. or with subparagraphs 2. and 3. If the exemption
22 provided under this paragraph expires because of such
23 deficiencies, the agency may not grant another exemption under
24 this paragraph to the same hospital for 2 years and, after the
25 2-year period has expired, may grant such an exemption only if
26 the hospital demonstrates its willingness to remain in
27 compliance with the adopted rules by correcting the
28 deficiencies that caused the exemption to expire.

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

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

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

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

27 (o)~~(n)~~ For the addition of hospital beds licensed
28 under chapter 395 for acute care, ~~mental health services,~~ or a
29 hospital-based distinct part skilled nursing unit in a number
30 that may not exceed 30 ~~10~~ total beds or 10 percent of the
31 licensed capacity of the bed category being expanded,

1 whichever is greater; for the addition of medical
2 rehabilitation beds licensed under chapter 395 in a number
3 that may not exceed 8 total beds or 10 percent of capacity,
4 whichever is greater; or for the addition of mental health
5 services beds licensed under chapter 395 in a number that may
6 not exceed 10 total beds or 10 percent of the licensed
7 capacity of the bed category being expanded, whichever is
8 greater. Beds for specialty burn units ~~or~~ neonatal intensive
9 care units, ~~or comprehensive rehabilitation~~, or at a long-term
10 care hospital, may not be increased under this paragraph.

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

14 a. Certify that the prior 12-month average occupancy
15 rate for the category of licensed beds being expanded at the
16 facility meets or exceeds 75 ~~80~~ percent or, for a
17 hospital-based distinct part skilled nursing unit, the prior
18 12-month average occupancy rate meets or exceeds 96 percent
19 or, for medical rehabilitation beds, meets or exceeds 80
20 percent.

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

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

28 3. The agency shall count beds authorized under this
29 paragraph as approved beds in the published inventory of
30 hospital beds until the beds are licensed.

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1 (p)~~(o)~~ For the addition of acute care beds, as
2 authorized by rule consistent with s. 395.003(4), in a number
3 that may not exceed 30 ~~10~~ total beds or 10 percent of licensed
4 bed capacity, whichever is greater, for temporary beds in a
5 hospital that has experienced high seasonal occupancy within
6 the prior 12-month period or in a hospital that must respond
7 to emergency circumstances.

8 (q)~~(p)~~ For the addition of nursing home beds licensed
9 under chapter 400 in a number not exceeding 10 total beds or
10 10 percent of the number of beds licensed in the facility
11 being expanded, whichever is greater.

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

15 a. Effective until June 30, 2001, certify that the
16 facility has not had any class I or class II deficiencies
17 within the 30 months preceding the request for addition.

18 b. Effective on July 1, 2001, certify that the
19 facility has been designated as a Gold Seal nursing home under
20 s. 400.235.

21 c. Certify that the prior 12-month average occupancy
22 rate for the nursing home beds at the facility meets or
23 exceeds 96 percent.

24 d. Certify that any beds authorized for the facility
25 under this paragraph before the date of the current request
26 for an exemption have been licensed and operational for at
27 least 12 months.

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

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

4 ~~(q) For establishment of a specialty hospital offering~~
5 ~~a range of medical service restricted to a defined age or~~
6 ~~gender group of the population or a restricted range of~~
7 ~~services appropriate to the diagnosis, care, and treatment of~~
8 ~~patients with specific categories of medical illnesses or~~
9 ~~disorders, through the transfer of beds and services from an~~
10 ~~existing hospital in the same county.~~

11 (r) For the conversion of hospital-based Medicare and
12 Medicaid certified skilled nursing beds to acute care beds, if
13 the conversion does not involve the construction of new
14 facilities.

15 (s) For the replacement of a statutory rural hospital
16 the proposed site of which is in the same district and within
17 10 miles of the existing facility and within the current
18 primary service area, defined as the fewest number of zip
19 codes comprising 75 percent of the hospital's inpatient
20 admissions.~~For fiscal year 2001-2002 only, for transfer by a~~
21 ~~health care system of existing services and not more than 100~~
22 ~~licensed and approved beds from a hospital in district 1,~~
23 ~~subdistrict 1, to another location within the same subdistrict~~
24 ~~in order to establish a satellite facility that will improve~~
25 ~~access to outpatient and inpatient care for residents of the~~
26 ~~district and subdistrict and that will use new medical~~
27 ~~technologies, including advanced diagnostics, computer~~
28 ~~assisted imaging, and telemedicine to improve care. This~~
29 ~~paragraph is repealed on July 1, 2002.~~

30 (t) For the conversion of mental health services beds
31 licensed under chapter 395 or hospital-based distinct part

1 skilled nursing unit beds to general acute care beds; the
2 conversion of mental health services beds between or among the
3 licensed bed categories defined as beds for mental health
4 services; or the conversion of general acute care beds to beds
5 for mental health services.

6 1. Conversion under this paragraph does not establish
7 a new licensed bed category at the hospital but applies only
8 to categories of beds licensed at that hospital.

9 2. Beds converted under this paragraph must be
10 licensed and operational for at least 12 months before the
11 hospital may apply for additional conversion affecting beds of
12 the same type.

13 (u) For the creation of at least a 10-bed Level II
14 neonatal intensive care unit in an applicant hospital that has
15 demonstrated to the agency that the hospital had at least
16 1,500 births during the previous 12 months.

17 (v) For the addition of Level II or Level III neonatal
18 intensive care beds in a number not to exceed 6 beds or 10
19 percent of licensed capacity in that category, whichever is
20 greater, if the hospital certifies that the average occupancy
21 rate for the category of licensed neonatal intensive care beds
22 during the immediately preceding 12 months is at least 75
23 percent.

24 Section 3. Section 408.038, Florida Statutes, is
25 amended to read:

26 408.038 Fees.--The agency shall assess fees on
27 certificate-of-need applications. Such fees shall be for the
28 purpose of funding ~~the functions of the local health councils~~
29 and the activities of the agency. Except for the increased
30 amount of funds received under subsection (3), the fees must
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1 ~~and shall~~ be allocated as provided in s. 408.033. The fee
2 shall be determined as follows:

3 (1) A minimum base fee of \$10,000~~\$5,000~~.

4 (2) In addition to the base fee of \$10,000~~\$5,000~~,
5 0.015 of each dollar of proposed expenditure, except that a
6 fee may not exceed \$50,000~~\$22,000~~.

7 (3) Any increase in fee revenues which is generated by
8 increases in the minimum base fee or increases in the fee
9 limit, as authorized by the 2003 Legislature, must be used
10 only to fund activities of the certificate-of-need program.

11 Section 4. Paragraph (e) of subsection (5) and
12 paragraph (c) of subsection (6) of section 408.039, Florida
13 Statutes, are amended to read:

14 408.039 Review process.--The review process for
15 certificates of need shall be as follows:

16 (5) ADMINISTRATIVE HEARINGS.--

17 (e) The agency shall issue its final order within 45
18 days after receipt of the recommended order. If the agency
19 fails to take action within 45 days, the Division of
20 Administrative Hearing's recommended order is considered
21 approved such time, or as otherwise agreed to by the applicant
22 and the agency, the applicant may take appropriate legal
23 action to compel the agency to act. When making a
24 determination on an application for a certificate of need, the
25 agency is specifically exempt from the time limitations
26 provided in s. 120.60(1).

27 (6) JUDICIAL REVIEW.--

28 (c) The court, in its discretion, may award reasonable
29 attorney's fees and costs to the prevailing party if the court
30 finds that there was a complete absence of a justiciable issue
31 of law or fact raised by the losing party. If the losing party

1 is a hospital, the court shall order it to pay the reasonable
2 attorney's fees and costs of the hospital that is the
3 prevailing party, including fees and costs incurred as a
4 result of the administrative hearing and the judicial appeal.

5 Section 5. Hospital Statutory and Regulatory Reform
6 Council; legislative intent; creation; membership; duties.--

7 (1) It is the intent of the Legislature to provide for
8 the protection of the public health and safety in the
9 establishment, construction, maintenance, and operation of
10 hospitals. However, the Legislature further intends that the
11 police power of the state be exercised toward that purpose
12 only to the extent necessary and that regulation remain
13 current with the ever-changing standard of care and not
14 restrict the introduction and use of new medical technologies
15 and procedures.

16 (2) In order to achieve the purposes expressed in
17 subsection (1), it is necessary that the state establish a
18 mechanism for the ongoing review and updating of laws
19 regulating hospitals. The Hospital Statutory and Regulatory
20 Reform Council is created and located, for administrative
21 purposes only, within the Agency for Health Care
22 Administration. The council shall consist of no more than 15
23 members, including:

24 (a) Nine members appointed by the Florida Hospital
25 Association who represent acute care, teaching, specialty,
26 rural, government-owned, for-profit, and not-for-profit
27 hospitals;

28 (b) Two members appointed by the Governor who
29 represent patients;

30 (c) Two members appointed by the President of the
31 Senate who represent private businesses that provide health

1 insurance coverage for their employees, one of whom represents
2 small private businesses and one of whom represents large
3 private businesses. As used in this paragraph, the term
4 "private business" does not include an entity licensed under
5 chapter 627, Florida Statutes, or chapter 641, Florida
6 Statutes, or otherwise licensed or authorized to provide
7 health insurance services, either directly or indirectly, in
8 this state; and

9 (d) Two members appointed by the Speaker of the House
10 of Representatives who represent physicians.

11 (3) Council members shall be appointed to serve 2-year
12 terms and may be reappointed. A member shall serve until his
13 or her successor is appointed. The council shall annually
14 elect from among its members a chair and a vice chair. The
15 council shall meet at least twice a year and shall hold
16 additional meetings as it considers necessary. Members
17 appointed by the Florida Hospital Association may not receive
18 compensation or reimbursement of expenses for their services.
19 Members appointed by the Governor, the President of the
20 Senate, or the Speaker of the House of Representatives may be
21 reimbursed for travel expenses by the agency.

22 (4) The council, as its first priority, shall review
23 chapters 395 and 408, Florida Statutes, and shall make
24 recommendations to the Legislature for the repeal of
25 regulatory provisions that are no longer necessary or that
26 fail to promote cost-efficient, high-quality medicine.

27 (5) The council, as its second priority, shall
28 recommend to the Secretary of Health and the Secretary of
29 Health Care Administration regulatory changes relating to
30 hospital licensure and regulation to assist the Department of
31 Health and the Agency for Health Care Administration in

1 carrying out their duties and to ensure that the intent of the
2 Legislature as expressed in this subsection is carried out.

3 (6) In determining whether a statute or rule is
4 appropriate or necessary, the council shall consider whether:

5 (a) The statute or rule is necessary to prevent
6 substantial harm, which is recognizable and not remote, to the
7 public health, safety, or welfare;

8 (b) The statute or rule restricts the use of new
9 medical technologies or encourages the implementation of more
10 cost-effective medical procedures;

11 (c) The statute or rule has an unreasonable effect on
12 job creation or job retention in the state;

13 (d) The public is or can be effectively protected by
14 other means;

15 (e) The overall cost-effectiveness and economic effect
16 of the proposed statute or rule, including the indirect costs
17 to consumers, will be favorable; and

18 (f) A lower-cost regulatory alternative to the statute
19 or rule could be adopted.

20 Section 6. This act shall take effect July 1, 2003.
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SENATE SUMMARY

Relates to certificates of need. Redefines the term "tertiary health service" as used in the Health Facility and Services Development Act, to include adult and pediatric open-heart surgery. Amends provisions specifying which health-care-related projects are subject to review and must file an application for a certificate of need. Exempts certain projects from review, including the provision of percutaneous coronary intervention, in specified circumstances. Provides for the expiration of such an exemption and for postponing the renewal of the exemption, as specified. Provides additional exemptions. Provides for increases in fees for certificate-of-need applications. Provides that such increased revenues must be used only to fund the certificate-of-need program. Provides for automatic approval of a certificate-of-need application if the Agency for Health Care Administration does not issue its final order within 45 days after receipt of the recommended order. Provides that a court must order a hospital that is a losing party to pay reasonable attorney's fees and costs of a hospital that is the prevailing party. Creates the Hospital Statutory and Regulatory Reform Council. Provides legislative intent. Provides membership and duties of the council.