

Bill No. SB 1190

Barcode 551812

CHAMBER ACTION

Senate

House

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The Committee on Health Care (Atwater) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 155.40, Florida Statutes, is amended to read:

155.40 Sale or lease of county, district, or municipal hospital; effect of sale.--

(1) In order that citizens and residents of the state may receive quality health care, any county, district, or municipal hospital organized and existing under the laws of this state, acting by and through its governing board, shall have the authority to sell or lease such hospital to a for-profit or not-for-profit Florida corporation, and enter into leases or other contracts with a for-profit or not-for-profit Florida corporation for the purpose of operating and managing such hospital and any or all of its facilities of whatsoever kind and nature. The term of any

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1 such lease, contract, or agreement and the conditions,
 2 covenants, and agreements to be contained therein shall be
 3 determined by the governing board of such county, district, or
 4 municipal hospital. The governing board of the hospital must
 5 find that the sale, lease, or contract is in the best
 6 interests of the public and must state the basis of such
 7 finding. If the governing board of a county, district, or
 8 municipal hospital decides to lease the hospital, it must give
 9 notice in accordance with paragraph (4)(a) or paragraph
 10 (4)(b).

11 (2) Any such lease, contract, or agreement made
 12 pursuant hereto shall:

13 (a) Provide that the articles of incorporation of such
 14 for-profit or not-for-profit corporation be subject to the
 15 approval of the board of directors or board of trustees of
 16 such hospital;

17 (b) Require that any not-for-profit corporation become
 18 qualified under s. 501(c)(3) of the United States Internal
 19 Revenue Code;

20 (c) Provide for the orderly transition of the
 21 operation and management of such facilities;

22 (d) Provide for the return of such facility to the
 23 county, municipality, or district upon the termination of such
 24 lease, contract, or agreement; and

25 (e) Provide for the continued treatment of indigent
 26 patients pursuant to the Florida Health Care Responsibility
 27 Act and pursuant to chapter 87-92, Laws of Florida.

28 (3) Any sale, lease, or contract entered into pursuant
 29 to this section prior to the effective date of this act must
 30 have complied with the requirements of subsection (2) in
 31 effect at the time of the sale, lease, or contract. It is the

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1 intent of the Legislature that this section does not impose
 2 any further requirements with respect to the formation of any
 3 for-profit or not-for-profit Florida corporation, the
 4 composition of the board of directors of any Florida
 5 corporation, or the manner in which control of the hospital is
 6 transferred to the Florida corporation.

7 (4) In the event the governing board of a county,
 8 district, or municipal hospital elects to sell or lease the
 9 hospital, the board shall:

10 (a) Negotiate the terms of the sale or lease with a
 11 for-profit or not-for-profit Florida corporation and publicly
 12 advertise the meeting at which the proposed sale or lease will
 13 be considered by the governing board of the hospital in
 14 accordance with s. 286.0105; or

15 (b) Publicly advertise the offer to accept proposals
 16 in accordance with s. 255.0525 and receive proposals from all
 17 interested and qualified purchasers.

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 19 Any sale must be for fair market value, and any sale or lease
 20 must comply with all applicable state and federal antitrust
 21 laws.

22 (5) In the event a hospital operated by a for-profit
 23 or not-for-profit Florida corporation receives annually more
 24 than \$100,000 in revenues from the county, district, or
 25 municipality that owns the hospital, the Florida corporation
 26 must be accountable to the county, district, or municipality
 27 with respect to the manner in which the funds are expended by
 28 either:

29 (a) Having the revenues subject to annual
 30 appropriations by the county, district, or municipality; or

31 (b) Where there is a contract to provide revenues to

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1 the hospital, the term of which is longer than 12 months, the
2 governing board of the county, district, or municipality must
3 be able to modify the contract upon 12 months notice to the
4 hospital.

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6 A not-for-profit corporation that is subject to this
7 subsection and that does not currently comply with the
8 accountability requirements in this subsection shall have 12
9 months after the effective date of this act to modify any
10 contracts with the county, district, or municipality in a
11 manner that is consistent with this subsection.

12 (6) Unless otherwise expressly stated in the lease
13 documents, the transaction involving the ~~sale or~~ lease of a
14 hospital shall not be construed as:

15 (a) A transfer of a governmental function from the
16 county, district, or municipality to the private ~~purchaser or~~
17 lessee;

18 (b) Constituting a financial interest of the public
19 lessor in the private lessee; or

20 (c) Making a private lessee an integral part of the
21 public lessor's decisionmaking process.

22 (7) The lessee of a hospital, under ~~pursuant to~~ this
23 section or any special act of the Legislature, operating under
24 a lease is ~~shall not be construed to be~~ "acting on behalf of"
25 the lessor as that term is used in statute, unless the lease
26 document expressly provides to the contrary.

27 (8) Unless otherwise expressly stated in the sale
28 documents, the transaction involving the sale of a hospital
29 shall not be construed as:

30 (a) A transfer of a governmental function from the
31 county, district, or municipality to the private purchaser;

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1 (b) Constituting a financial interest of the public
2 seller in the private purchaser; or

3 (c) Making a private purchaser an integral part of the
4 public seller's decisionmaking process.

5 (9)(a) The purchaser of a hospital, under this section
6 or any special act of the Legislature, operating after a sale
7 of the hospital is not "acting on behalf of" the seller as
8 that term is used in statute, unless the sale document
9 expressly provides to the contrary.

10 (b) The purchaser of a hospital, under this section or
11 any special act of the Legislature, operating after a sale of
12 the hospital shall not be construed as an "agency" within the
13 meaning of s. 119.011(2), unless the sale document expressly
14 provides to the contrary.

15 Section 2. This act shall take effect July 1, 2006.

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

19 And the title is amended as follows:

20 Delete everything before the enacting clause

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22 and insert:

23 A bill to be entitled

24 An act relating to the sale or lease of a
25 county, district, or municipal hospital;
26 amending s. 155.40, F.S.; providing for the
27 effect of the sale of a public hospital to a
28 private purchaser; providing that the purchaser
29 of a public hospital is not acting on behalf of
30 the public entity seller and is not an agency
31 within the meaning of ch. 119, F.S., unless the

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1 sale document expressly provides to the
2 contrary; providing an effective date.
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