

CHAMBER ACTION

1 The Governmental Operations Committee recommends the following:

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3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

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6 A bill to be entitled

7 An act relating to the sale or lease of a county,
8 district, or municipal hospital; amending s. 155.40, F.S.;
9 providing for the effect of the sale of a public hospital
10 to a private purchaser; providing that the purchaser of a
11 public hospital is not acting on behalf of the public
12 entity seller and is not an agency within the meaning of
13 ch. 119, F.S., unless the sale document expressly provides
14 to the contrary; providing an effective date.

15
16 Be It Enacted by the Legislature of the State of Florida:

17
18 Section 1. Section 155.40, Florida Statutes, is amended to
19 read:

20 155.40 Sale or lease of county, district, or municipal
21 hospital; effect of sale.--

22 (1) In order that citizens and residents of the state may
23 receive quality health care, any county, district, or municipal

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24 hospital organized and existing under the laws of this state,
25 acting by and through its governing board, shall have the
26 authority to sell or lease such hospital to a for-profit or not-
27 for-profit Florida corporation, and enter into leases or other
28 contracts with a for-profit or not-for-profit Florida
29 corporation for the purpose of operating and managing such
30 hospital and any or all of its facilities of whatsoever kind and
31 nature. The term of any such lease, contract, or agreement and
32 the conditions, covenants, and agreements to be contained
33 therein shall be determined by the governing board of such
34 county, district, or municipal hospital. The governing board of
35 the hospital must find that the sale, lease, or contract is in
36 the best interests of the public and must state the basis of
37 such finding. If the governing board of a county, district, or
38 municipal hospital decides to lease the hospital, it must give
39 notice in accordance with paragraph (4) (a) or paragraph (4) (b).

40 (2) Any such lease, contract, or agreement made pursuant
41 hereto shall:

42 (a) Provide that the articles of incorporation of such
43 for-profit or not-for-profit corporation be subject to the
44 approval of the board of directors or board of trustees of such
45 hospital;

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

49 (c) Provide for the orderly transition of the operation
50 and management of such facilities;

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51 (d) Provide for the return of such facility to the county,
52 municipality, or district upon the termination of such lease,
53 contract, or agreement; and

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

57 (3) Any sale, lease, or contract entered into pursuant to
58 this section prior to the effective date of this act must have
59 complied with the requirements of subsection (2) in effect at
60 the time of the sale, lease, or contract. It is the intent of
61 the Legislature that this section does not impose any further
62 requirements with respect to the formation of any for-profit or
63 not-for-profit Florida corporation, the composition of the board
64 of directors of any Florida corporation, or the manner in which
65 control of the hospital is transferred to the Florida
66 corporation.

67 (4) In the event the governing board of a county,
68 district, or municipal hospital elects to sell or lease the
69 hospital, the board shall:

70 (a) Negotiate the terms of the sale or lease with a for-
71 profit or not-for-profit Florida corporation and publicly
72 advertise the meeting at which the proposed sale or lease will
73 be considered by the governing board of the hospital in
74 accordance with s. 286.0105; or

75 (b) Publicly advertise the offer to accept proposals in
76 accordance with s. 255.0525 and receive proposals from all
77 interested and qualified purchasers.

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79 | Any sale must be for fair market value, and any sale or lease
80 | must comply with all applicable state and federal antitrust
81 | laws.

82 | (5) In the event a hospital operated by a for-profit or
83 | not-for-profit Florida corporation receives annually more than
84 | \$100,000 in revenues from the county, district, or municipality
85 | that owns the hospital, the Florida corporation must be
86 | accountable to the county, district, or municipality with
87 | respect to the manner in which the funds are expended by either:

88 | (a) Having the revenues subject to annual appropriations
89 | by the county, district, or municipality; or

90 | (b) Where there is a contract to provide revenues to the
91 | hospital, the term of which is longer than 12 months, the
92 | governing board of the county, district, or municipality must be
93 | able to modify the contract upon 12 months notice to the
94 | hospital.

95 |
96 | A not-for-profit corporation that is subject to this subsection
97 | and that does not currently comply with the accountability
98 | requirements in this subsection shall have 12 months after the
99 | effective date of this act to modify any contracts with the
100 | county, district, or municipality in a manner that is consistent
101 | with this subsection.

102 | (6) Unless otherwise expressly stated in the lease
103 | documents, the transaction involving the ~~sale or~~ lease of a
104 | hospital shall not be construed as:

105 | (a) A transfer of a governmental function from the county,
106 | district, or municipality to the private ~~purchaser or~~ lessee;

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

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

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

116 (8) Unless otherwise expressly stated in the sale
117 documents, the transaction involving the sale of a hospital
118 shall not be construed as:

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

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

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

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

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

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