

By the Committee on Health Regulation; and Senators Atwater and Ring

588-2375-07

1 A bill to be entitled
2 An act relating to the Florida Health
3 Information Network; creating s. 408.064, F.S.;
4 providing a short title; providing legislative
5 intent; creating the Florida Health Information
6 Network Advisory Council within the Executive
7 Office of the Governor; specifying membership
8 and terms of office; providing duties and staff
9 support for the advisory council; establishing
10 duties of the Agency for Health Care
11 Administration regarding development of an
12 electronic health information network; creating
13 a direct-support organization to assist the
14 agency; providing for the appointment of a
15 board of directors for the direct-support
16 organization; providing for applicability of
17 public-records and public-meetings requirements
18 to the direct-support organization; providing
19 for audits; requiring a contract between the
20 agency and the direct-support organization
21 which includes certain requirements; requiring
22 the Agency for Health Care Administration to
23 prepare and submit to the Council on Efficient
24 Government a business case analysis for the
25 implementation of a statewide health
26 information network; specifying the elements of
27 the business case analysis; requiring the
28 Council on Efficient Government to submit its
29 evaluation of the business case analysis to the
30 Governor, the Florida Health Information
31 Network Advisory Council, the Agency for Health

1 Care Administration, and the Legislature;
2 requiring competitive procurement; prohibiting
3 a contract to implement a statewide health
4 information network unless funds are
5 appropriated; authorizing the Agency for Health
6 Care Administration to adopt rules; providing
7 an appropriation; providing an effective date.

8
9 Be It Enacted by the Legislature of the State of Florida:

10
11 Section 1. Section 408.064, Florida Statutes, is
12 created to read:

13 408.064 Florida Health Information Network Act;
14 intent; advisory council; duties of the agency; direct-support
15 organization; business case analysis.--

16 (1) SHORT TITLE.--This section may be cited as the
17 "Florida Health Information Network Act."

18 (2) LEGISLATIVE INTENT.--It is the intent of the
19 Legislature to promote the establishment of a
20 privacy-protected, secure, and integrated statewide network
21 for the electronic communication of health information among
22 authorized parties. It is further the intent of the
23 Legislature to foster a coordinated initiative between the
24 public and private sectors for the development and operation
25 of Florida's electronic health information infrastructure.

26 (3) ADVISORY COUNCIL.--There is created in the
27 Executive Office of the Governor the Florida Health
28 Information Network Advisory Council to advise state agencies
29 on the development of Florida's electronic health information
30 infrastructure.

31 (a) The advisory council shall consist of:

1 1. The Secretary of Health Care Administration or the
2 secretary's designee;

3 2. The Secretary of Health or the secretary's
4 designee;

5 3. The Secretary of Management Services or the
6 secretary's designee;

7 4. One member representing health insurers appointed
8 by the Chief Financial Officer;

9 5. Three members appointed by the Governor, one
10 representing hospitals, one representing allopathic
11 physicians, and one representing a health care information
12 technology business in the state;

13 6. Three members appointed by the President of the
14 Senate, one representing a regional health information
15 organization, one representing a college of medicine in the
16 state, and one representing pharmacies in the state; and

17 7. Three members appointed by the Speaker of the House
18 of Representatives, one representing a regional health
19 information organization, one representing osteopathic
20 physicians, and one representing a health care information
21 technology business in the state.

22 (b) Members shall be appointed to terms of 4 years,
23 except that of the members initially appointed, the Governor,
24 the President of the Senate, and the Speaker of the House of
25 Representatives shall each appoint one member to a 2-year term
26 and one member to a 3-year term. A vacancy on the advisory
27 council shall be filled for the remainder of the unexpired
28 term in the same manner as the original appointment. Any
29 member is eligible for reappointment.

30
31

1 (c) The chair of the advisory council shall be
2 selected by a majority vote of the members, a quorum being
3 present.

4 (d) The advisory council shall advise the Governor and
5 the Agency for Health Care Administration on the development
6 of a statewide electronic health information network.

7 (e) The members of the advisory council shall receive
8 no compensation, but are entitled to reimbursement for per
9 diem and travel expenses incurred while attending meetings of
10 the advisory council and otherwise on official business of the
11 advisory council as provided in s. 112.061.

12 (f) The Agency for Health Care Administration shall
13 provide staff support to the advisory council.

14 (4) DUTIES OF THE AGENCY FOR HEALTH CARE
15 ADMINISTRATION.--The agency shall promote the development of
16 an electronic health information network as a public-private
17 partnership among health care providers, payors, consumers,
18 employers, public health officials, medical researchers, and
19 other health care stakeholders in the state. The agency shall:

20 (a) Promote an integrated approach to creating a
21 secure network for electronic communication of health
22 information in the state;

23 (b) Develop and implement specific programs or
24 strategies to create, develop, and expand regional or local
25 health information networks and recruit participants in the
26 networks;

27 (c) Establish standards for statewide and interstate
28 interoperability among national, regional, and local health
29 information networks and other participants in the Florida
30 health information network;

31

1 (d) Regularly assess the adoption of electronic health
2 records systems and the use of the Florida health information
3 network by health care providers, consumers, public health
4 officials, and other health care stakeholders in order to
5 identify and reevaluate the state's health information
6 infrastructure strengths and weaknesses, assess opportunities
7 to increase consumer access to the consumer's health records,
8 and incorporate such information into its strategic planning
9 process;

10 (e) Establish privacy, security, operational, and
11 technical standards, based on widely adopted standards or
12 standards accepted by recognized national standard-setting
13 organizations, for the statewide, regional, and local health
14 information networks in order to ensure effective statewide
15 privacy, data security, and efficiency;

16 (f) Develop annual budgets that include funding from
17 public and private entities, including user fees; and

18 (g) Take commercially reasonable measures to protect
19 the agency's intellectual property, including obtaining
20 patents, trademarks, and copyrights where appropriate.

21 (5) DIRECT-SUPPORT ORGANIZATION.--The Florida Health
22 Information Network, Inc., is created as a direct-support
23 organization whose sole purpose is to assist the Agency for
24 Health Care Administration in developing a statewide
25 electronic health information network.

26 (a) The Florida Health Information Network, Inc., must
27 be:

28 1. Incorporated under chapter 617 and approved by the
29 Department of State as a Florida corporation not for profit;
30
31

1 2. Organized and operated to raise funds; to request
2 and receive grants, gifts, and bequests of money; and to
3 receive, hold, invest, and administer property; and

4 3. Determined by the agency to be consistent with the
5 goal of developing a state electronic health information
6 network in the best interests of the state and in accordance
7 with the adopted goals and mission of the agency.

8 (b) The affairs of the direct-support organization
9 shall be managed by a 12-member board of directors who shall
10 serve without compensation. The board of directors shall be
11 appointed by the Secretary of Health Care Administration.
12 Members shall be appointed for terms of 4 years except that,
13 of the members initially appointed, four members shall be
14 appointed to 2-year terms and four members shall be appointed
15 to 3-year terms.

16 (c) The direct-support organization is subject to the
17 open-records and open-meetings requirements of s. 24, Art. I
18 of the State Constitution, chapter 119, and s. 286.011.

19 (d) The direct-support organization shall provide for
20 an annual financial audit of its accounts and records which
21 shall be conducted by an independent certified public
22 accountant in accordance with rules adopted by the Auditor
23 General pursuant to s. 11.45(8) and by the agency. The annual
24 audit report shall be submitted, within 9 months after the end
25 of the fiscal year, to the Auditor General and the agency for
26 review. The Auditor General and the Office of Program Policy
27 Analysis and Government Accountability may require and receive
28 from the organization or from its independent auditor any
29 records relative to the operation of the organization.

1 (e) The direct-support organization shall operate
2 under a written contract with the agency. The written contract
3 must provide for:

4 1. Approval of the articles of incorporation and
5 bylaws of the direct-support organization by the agency;

6 2. Submission of an annual budget for the approval of
7 the agency;

8 3. Certification by the agency that the direct-support
9 organization is complying with the terms of the contract and
10 is doing so consistent with the goals and purposes of the
11 agency and in the best interests of the state. This
12 certification must be made annually and reported in the
13 official minutes of a meeting of the direct-support
14 organization;

15 4. The reversion of moneys and property, including
16 intellectual property, held in trust by the direct-support
17 organization to the agency if the direct-support organization
18 is no longer approved to operate for the agency, to the agency
19 if the direct-support organization ceases to exist, or to the
20 state if the agency ceases to exist;

21 5. The fiscal year of the direct-support organization,
22 which must begin July 1 of each year and end June 30 of the
23 following year; and

24 6. The disclosure of material provisions of the
25 contract, and the distinction between the agency and the
26 direct-support organization, to donors of gifts,
27 contributions, or bequests, including such disclosure on all
28 promotional and fundraising publications.

29 (f) Expenditures of the direct-support organization
30 may not be used for the purpose of lobbying as defined in s.
31 11.045.

1 (6) BUSINESS CASE ANALYSIS.--

2 (a) The Agency for Health Care Administration shall
3 prepare a business case analysis for the implementation of a
4 statewide health information network for sharing electronic
5 health records and submit the business case analysis to the
6 Council on Efficient Government for its review and evaluation
7 by October 1, 2007. The business case analysis must meet the
8 requirements of s. 287.0574(4) and must include the analysis
9 and costing of three specific organizational delivery models:

10 1. A state agency model in which all resource
11 requirements are delivered by entities and personnel in the
12 public sector;

13 2. A hybrid model in which a state agency procures
14 specific subcomponents and acts as a master integrator; and

15 3. A sourced model in which a private entity is
16 contracted for the performance of all tasks and deliverables
17 and the state agency acts as contract manager.

18
19 The Council on Efficient Government must provide its
20 evaluation of the business case analysis to the Governor, the
21 Florida Health Information Network Advisory Council, the
22 Agency for Health Care Administration, and the Legislature by
23 December 1, 2007.

24 (b) Notwithstanding the provisions of s. 287.057, any
25 procurement issued by a state agency, other than for
26 implementation by the state agency itself, subsequent to the
27 delivery of the business case analysis must be competitively
28 procured using an invitation to negotiate, a request for
29 proposals, or an invitation to bid.

30
31

1 (c) A contract to implement a statewide health
2 information network may not be executed unless all funds are
3 specifically appropriated by law.

4 (7) RULES.--The Agency for Health Care Administration
5 may adopt rules necessary to administer this section.

6 Section 2. The sum of \$ in nonrecurring general
7 revenue funds is appropriated to the Agency for Health Care
8 Administration for the 2007-2008 fiscal year for the purpose
9 of paying the expenses of the Florida Health Information
10 Network Advisory Council, establishing the Florida Health
11 Information Network, Inc., as a direct-support organization,
12 and conducting the business case analysis required under s.
13 408.064, Florida Statutes.

14 Section 3. This act shall take effect upon becoming a
15 law.

16
17 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
18 CS FOR
19 SB's 2348 and 2582

20 The committee substitute creates the Florida Health
21 Information Network Advisory Council (advisory council) within
22 the executive office of the Governor and provides for its
23 membership, duties, and staff support. It creates the Florida
24 Health Information Network, Inc., as a direct-support
25 organization to assist the Agency for Health Care
26 Administration (AHCA or agency) in its duties in developing an
27 electronic health information network. The committee
28 substitute requires a contract for the direct-support
29 organization and outlines the contract requirements. It
30 requires the agency to prepare and submit a business case
31 analysis to the Council on Efficient Government (council) and
specifies the elements to be included in the business case. It
requires the council to submit an evaluation of the business
case to the Governor, advisory council, the AHCA, and the
Legislature. The committee substitute requires competitive
procurement and prohibits a contract for implementation unless
funds are appropriated.