



942408

CHAMBER ACTION

Senate

House

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Floor: WD/2R  
4/9/2008 8:46 PM

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1 Senator Peaden moved the following **amendment**:

2  
3 **Senate Amendment (with directory and title amendments)**

4 Delete line(s) 140-164

5 and insert:

6 (5) ADMINISTRATIVE HEARINGS.--

7 (b) Hearings shall be held in Tallahassee unless the  
8 administrative law judge determines that changing the location  
9 will facilitate the proceedings. The agency shall assign  
10 proceedings requiring hearings to the Division of Administrative  
11 Hearings of the Department of Management Services within 10 days  
12 after the time has expired for requesting a hearing. Except upon  
13 unanimous consent of the parties or upon the granting by the  
14 administrative law judge of a motion of continuance, hearings  
15 shall commence within 60 days after the administrative law judge  
16 has been assigned. For an application for a general hospital,  
17 administrative hearings shall be scheduled within 6 months after



942408

18 the administrative law judge has been assigned, and a continuance  
19 may not be granted absent a finding of extraordinary  
20 circumstances by the administrative law judge. All parties,  
21 except the agency, shall bear their own expense of preparing a  
22 transcript. In any application for a certificate of need which is  
23 referred to the Division of Administrative Hearings for hearing,  
24 the administrative law judge shall complete and submit to the  
25 parties a recommended order as provided in ss. 120.569 and  
26 120.57. The recommended order shall be issued within 30 days  
27 after the receipt of the proposed recommended orders or the  
28 deadline for submission of such proposed recommended orders,  
29 whichever is earlier. The division shall adopt procedures for  
30 administrative hearings which shall maximize the use of  
31 stipulated facts and shall provide for the admission of prepared  
32 testimony.

33 (c) In administrative proceedings challenging the issuance  
34 or denial of a certificate of need, only applicants considered by  
35 the agency in the same batching cycle are entitled to a  
36 comparative hearing on their applications. Existing health care  
37 facilities may initiate or intervene in an administrative hearing  
38 upon a showing that an established program will be substantially  
39 affected by the issuance of any certificate of need, whether  
40 reviewed under s. 408.036(1) or (2), to a competing proposed  
41 facility or program within the same district. With respect to an  
42 application for a general hospital, competing applicants and only  
43 those existing hospitals that submitted a detailed written  
44 statement of opposition to an application as provided in this  
45 paragraph may initiate or intervene in an administrative hearing.  
46 Such challenges to a general hospital application shall be  
47 limited in scope to the issues raised in the detailed written



942408

48 statement of opposition that was provided to the agency. The  
49 administrative law judge may, upon a motion showing good cause,  
50 expand the scope of the issues to be heard at the hearing. Such  
51 motion shall include substantial and detailed facts and reasons  
52 for failure to include such issues in the original written  
53 statement of opposition.

54  
55 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

56 And the directory clause is amended as follows:

57 Delete line(s) 113-116  
58 and insert:

59 Section 3. Paragraphs (b) and (c) of subsection (5) of  
60 section 408.039, Florida Statutes, are amended to read:

61  
62 ===== T I T L E A M E N D M E N T =====

63 And the title is amended as follows:

64 Delete line(s) 11-14  
65 and insert:

66 filing a letter of intent to file an application; limiting  
67 the period of a continuance that may be granted with  
68 respect to an administrative hearing considering an  
69 application for a general hospital; limiting the parties  
70 who may challenge in an administrative hearing involving  
71 an application for a certificate of need; limiting the  
72 scope of the challenge; authorizing the administrative  
73 judge to expand the scope of the issues to be heard upon a  
74 motion showing good cause; requiring that the