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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/22/2011	.	
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The Committee on Health Regulation (Altman) recommended the following:

Senate Amendment (with title amendment)

Delete lines 56 - 130
and insert:

(4) (b). Any sale or lease of a tax-supported hospital is subject to approval by the Attorney General. For the purposes of this section, the term "tax-supported hospital" means a county, district, or municipal hospital that has received ad valorem or other tax revenues directly from a county, district, or municipal taxing authority to support the hospital at any time



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13 within the 5 years prior to the effective date of any proposed
14 lease or sale.

15 (2) Any ~~such~~ lease, contract, or agreement made pursuant
16 hereto shall:

17 (a) Provide that the articles of incorporation of the ~~such~~
18 for-profit or not-for-profit corporation be subject to the
19 approval of the board of directors or board of trustees of the
20 ~~such~~ hospital;

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

24 (c) Provide for the orderly transition of the operation and
25 management of the ~~such~~ facilities;

26 (d) Provide for the return of the ~~such~~ facility to the
27 county, municipality, or district upon the termination of the
28 ~~such~~ lease, contract, or agreement; and

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

32 (3) Any sale, lease, or contract entered into pursuant to
33 this section prior to the effective date of this act must have
34 complied with the requirements of subsection (2) in effect at
35 the time of the sale, lease, or contract. It is the intent of
36 the Legislature that this section does not impose any further
37 requirements with respect to the formation of any for-profit or
38 not-for-profit Florida corporation, the composition of the board
39 of directors of any Florida corporation, or the manner in which
40 control of the hospital is transferred to the Florida
41 corporation.



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42 (4) ~~If In the event~~ the governing board of a county,
43 district, or municipal hospital determines it is no longer in
44 the public interest to own or operate the hospital and elects to
45 consider a sale or lease of the hospital, the board shall first
46 determine whether there are any qualified purchasers or lessees
47 of the hospital. In the process of evaluating any potential
48 purchasers or lessees ~~elects to sell or lease the hospital,~~ the
49 board shall:

50 (a) ~~Negotiate the terms of the sale or lease with a for-~~
51 ~~profit or not-for-profit Florida corporation and Publicly~~
52 advertise the meeting at which the proposed sale or lease will
53 be considered by the governing board of the hospital in
54 accordance with s. 286.0105; or

55 (b) Publicly advertise the offer to accept proposals in
56 accordance with s. 255.0525 and receive proposals from all
57 interested and qualified purchasers.

58
59 Any sale or lease must be for fair market value, and any sale or
60 lease must comply with all applicable state and federal
61 antitrust laws. As used in this section, the term "fair market
62 value" means the most likely price that the assets would bring
63 in a sale or lease in a competitive and open market under all
64 conditions requisite to a fair sale or lease, with the buyer or
65 lessee, and seller or lessor, each acting prudently,
66 knowledgeably, and in their own best interest, and with a
67 reasonable time being allowed for exposure in the open market.

68 (5) If the governing board decides to accept a proposal to
69 purchase or lease the hospital, the board's decision must be in
70 writing and clearly state the facts and findings that support



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71 its decision to sell or lease the hospital. The facts and
72 findings must include, but are not limited to, whether the
73 proposal:

74 (a) Represents the fair market value of the hospital;

75 (b) Constitutes the best use of the hospital and its
76 attendant facilities;

77 (c) Will have a positive effect on the reduction or
78 elimination of ad valorem or other tax revenues if any are used
79 to support the hospital; and

80 (d) Ensures that quality health care will continue to be
81 provided to all residents of the affected community, and in
82 particular the indigent, the uninsured, and the underinsured.

83 (6) A governing board of a tax-supported hospital may not
84 enter into any sale or lease of a hospital and its attendant
85 facilities without first having received approval of the sale or
86 lease from the Attorney General pursuant to this section.

87
88 ===== T I T L E A M E N D M E N T =====

89 And the title is amended as follows:

90
91 Delete lines 4 - 26

92 and insert:

93
94 sale or lease of a tax-supported hospital to a for-
95 profit or not-for-profit Florida corporation receive
96 prior approval by the Attorney General; defining the
97 term "tax-supported hospital;" requiring the governing
98 board of a tax-supported hospital to first determine
99 whether there are any qualified purchasers or lessees



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100 of the hospital before considering whether to sell or
101 lease the hospital; defining the term "fair market
102 value"; requiring the governing board to put in
103 writing the facts and findings to justify the
104 governing board's decision to sell or lease the public
105 hospital to a third party; detailing the issues that
106 the governing board must address in order to sell or
107 lease the hospital; setting forth the procedures that
108 must be followed by the governing board to gain the
109 approval of the Attorney General to sell or lease a
110 tax-supported hospital; authorizing the Attorney
111 General to employ independent consultants to determine
112 the fair market value of the proposed sale or lease of
113 a tax-supported hospital; authorizing interested
114 persons to file a statement in opposition to the sale
115 or lease of the hospital; specifying the criteria the
116 Attorney General must consider when deciding whether
117 to approve or deny the proposed sale or lease of a
118 tax-supported hospital; requiring the Attorney