



413528

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2012	.	
	.	
	.	
	.	

The Committee on Community Affairs (Storms) recommended the following:

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 the interest of providing quality health care
services to the ~~order that~~ citizens and residents of this the
state ~~may receive quality health care, and notwithstanding any~~



413528

13 other provision of general or special law, a ~~any~~ county,
14 district, or municipal hospital organized and existing under the
15 laws of this state, acting by and through its governing board,
16 ~~may shall have the authority to~~ sell or lease the ~~such~~ hospital
17 to a for-profit or not-for-profit Florida entity ~~corporation,~~
18 and enter into leases or other contracts with a for-profit or
19 not-for-profit Florida entity ~~corporation~~ for the purpose of
20 operating the and ~~managing~~ ~~such~~ hospital and ~~any or all of~~ its
21 facilities ~~of whatsoever kind and nature~~. The term of any such
22 lease, contract, or agreement and the conditions, covenants, and
23 agreements to be contained therein shall be determined by the
24 governing board of the ~~such county, district, or municipal~~
25 hospital. The governing board of the hospital must find that the
26 sale, lease, or contract is in the best interests of the
27 affected community ~~public~~ and must state the basis of that ~~such~~
28 finding. ~~If the governing board of a county, district, or~~
29 ~~municipal hospital decides to lease the hospital, it must give~~
30 ~~notice in accordance with paragraph (4) (a) or paragraph (4) (b).~~

31 (2) A ~~Any such~~ lease, contract, or agreement made pursuant
32 hereto shall:

33 (a) Provide that the articles of incorporation of the ~~such~~
34 for-profit or not-for-profit corporation be subject to the
35 approval of the board of directors or board of trustees of the
36 ~~such~~ hospital;

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

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



413528

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

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

48 (3) Any sale, lease, or contract entered into pursuant to
49 this section before ~~prior to~~ the effective date of this act must
50 have complied with the requirements of subsection (2) in effect
51 at the time of the sale, lease, or contract. Any lease
52 modification, renewal, or extension relating to a lease
53 transaction that occurred before the effective date of this act
54 is not subject to subsections (6)-(17). It is the intent of the
55 Legislature that this section does not impose any further
56 requirements with respect to the formation of any for-profit or
57 not-for-profit Florida entity ~~corporation~~, the composition of
58 the board of directors of any Florida entity ~~corporation~~, or the
59 manner in which control of the hospital is transferred to the
60 Florida entity ~~corporation~~.

61 (4) As used in this section, the term:

62 (a) "Affected community" means those persons residing
63 within the geographic boundaries defined by the charter of the
64 county, district, or municipal hospital, or if the boundaries
65 are not specifically defined by charter of the hospital, by the
66 geographic area from which 75 percent of the county, district,
67 or municipal hospital's inpatient admissions are derived.

68 (b) "Expression of interest" means a bona fide request from
69 a for-profit or not-for-profit entity that is a qualified
70 purchaser or lessee to the board of directors of a county,



413528

71 district, or municipal hospital to enter into negotiations to
72 sell or lease the hospital or health care system on commercially
73 reasonable terms.

74 (c) "Fair market value" means the price that a seller or
75 lessor is willing to accept and a buyer or lessee is willing to
76 pay on the open market and in an arms-length transaction, or
77 what an independent expert in hospital valuation determines the
78 fair market value to be.

79 (d) "Increase tax support" means a vote to increase ad
80 valorem or other taxes that are used to support operations of
81 the hospital or health care system or any vote to allow the ad
82 valorem tax rate to remain the same in any year in which
83 property values in the taxing district have increased on the
84 average, resulting in an increase in ad valorem tax revenues to
85 the hospital.

86 (e) "Interested party" includes a person submitting a
87 proposal for sale or lease of the county, district, or municipal
88 hospital, as well as the governing board.

89 (f) "Net operating expenses" means the total operating
90 expenses of the hospital, excluding depreciation, interest,
91 taxes, amortization, and nonoperating expenses.

92 (g) "Net operating revenues" has the same meaning as
93 provided in s. 395.701(1). The term does not include restricted
94 donations and grants for indigent care or nonoperating revenues,
95 including, but not limited to, local unrestricted tax revenues
96 and appropriated funds from state and local governments or any
97 other type of tax support, gain or loss from the sale of assets,
98 or unrestricted contributions.

99 (h) "Qualified purchaser or lessee" means an entity that



413528

100 demonstrates access to capital in an amount equal to or in
101 excess of 25 percent of the net revenue generated in the
102 immediately preceding fiscal year of the hospital or health care
103 system that is the subject of the sale or lease. Such access to
104 capital can be demonstrated by cash reserves, an existing line
105 of credit, or a binding commitment to obtain a line of credit to
106 finance the purchase in an amount that equals or exceeds 25
107 percent of the net revenue generated by the hospital or health
108 care system.

109 (5) (a) The governing board of a county, district, or
110 municipal hospital shall commence an evaluation of the possible
111 benefits to an affected community from the sale or lease of
112 hospital facilities owned by the board to a not-for-profit or
113 for-profit entity within 60 calendar days after:

114 1. The county, district, or municipal hospital or health
115 care system receives a bona fide expression of interest by a
116 qualified purchaser or lessee to buy or lease the county,
117 district, or municipal hospital or health care system;

118 2. The governing board of a county, district, or municipal
119 hospital votes to increase the amount of tax support for the
120 hospital or health care system;

121 3. The county, district, or municipal hospital or health
122 care system experiences operating deficits that result in net
123 operating expenses that exceed net operating revenues by 10
124 percent or more for 3 consecutive years;

125 4. The county, district, or municipal hospital or health
126 care system has had administrative complaint proceedings
127 initiated against it by the Agency for Health Care
128 Administration for licensure violations under chapter 395 in 3



413528

129 consecutive years;

130 5. The county, district, or municipal hospital or health
131 care system has been declared ineligible to participate in the
132 Medicare or Medicaid program; or

133 6. The county, district, or municipal hospital or health
134 care system fails to achieve or loses accreditation by the Joint
135 Commission on Accreditation of Healthcare Organizations.

136 (b) In the course of evaluating the benefits of the sale or
137 lease, the board shall:

138 1. Conduct a public hearing to provide interested persons
139 the opportunity to be heard on the matter.

140 2. Publish notice of the public hearing in one or more
141 newspapers of general circulation in the county in which the
142 majority of the physical assets of the hospital are located and
143 in the Florida Administrative Weekly at least 15 days before the
144 hearing is scheduled to occur.

145 3. Contract with a certified public accounting firm or
146 other firm that has substantial expertise in the valuation of
147 hospitals to render an independent valuation of the hospital's
148 fair market value. The firm chosen by the board must be
149 agreeable to the qualified purchaser or lessee and the hospital
150 or health care system. The firm's valuation report shall be made
151 available to the public 7 working days before the scheduled
152 public hearing.

153 4. Consider an objective operating comparison between a
154 hospital or health care system operated by the district, county,
155 or municipality and other similarly situated hospitals, both
156 not-for-profit and for-profit, which have a similar service mix,
157 in order to determine whether there is a difference in the cost



413528

158 of operation using publicly available data provided by the
159 Agency for Health Care Administration and the quality metrics
160 identified by the Centers for Medicare and Medicaid Services
161 Core Measures. The comparison must determine whether it is more
162 beneficial to taxpayers and the affected community for the
163 hospital to be operated by a governmental entity, or whether the
164 hospital can be operated by a not-for-profit or for-profit
165 entity with similar or better cost-efficiencies or measurable
166 outcomes identified by the Centers for Medicare and Medicaid
167 Services Core Measures. The comparison must also determine
168 whether there is a net benefit to the community to operate the
169 hospital as a not-for-profit or for-profit entity and use the
170 proceeds of the sale or lease for the purposes described in this
171 section.

172 5. Make publicly available all documents considered by the
173 board in the course of such evaluation.

174 (c)1. Within 160 days after the initiation of the process
175 established in paragraphs (a) and (b), the governing board shall
176 publish notice of the board's findings in one or more newspapers
177 of general circulation in the county in which the majority of
178 the physical assets of the hospital are located and in the
179 Florida Administrative Weekly.

180 2. This evaluation is not required if a district, county,
181 or municipal hospital has issued a public request for proposals
182 for the sale or lease of a hospital on or before February 1,
183 2012, for the purpose of receiving proposals from qualified
184 purchasers or lessees, either not-for-profit or for-profit.

185 3. The fair market valuation established in paragraph (b)
186 shall be valid for a period of 12 months following the date of



413528

187 its issuance, unless there are material financial changes in the
188 hospitals financial condition as determined by the outside
189 independent certified public accounting firm for the hospital or
190 health care system, the Agency for Health Care Administration,
191 or the Auditor General.

192 4. This subsection does not apply to any county, district
193 or municipal hospital, or health care system that is under lease
194 as of February 1, 2012, as long as that lease remains in effect
195 in accordance with the terms of the lease or such lease is
196 extended or renewed. Any such hospital or health care system,
197 however, becomes subject to this subsection upon:

198 a. Termination of the lease;

199 b. Notification provided to the lessee of a planned
200 termination of the lease in accordance with the lease terms;

201 c. Notification to the lessee that the lessor plans to seek
202 potential new lessees or buyers; or

203 d. Notification to the lessee that the lessor plans to
204 resume operation of the hospital or health care system at the
205 termination of the lease.

206
207 Any such hospital or health care system may not thereafter be
208 sold, leased to another lessee, or operated by the owner without
209 first complying with the provisions of subsections (5)-(16).

210 (6)-(4) If, upon completion of the evaluation of the
211 benefits of the sale or lease, ~~In the event~~ the governing board
212 of a county, district, or municipal hospital determines that it
213 is no longer in the best interest of the affected community to
214 own or operate a hospital or health care system and elects to
215 consider a sale or lease of the hospital or health care system



413528

216 to a third party, the governing board must first determine
217 whether there are any qualified purchasers or lessees. In the
218 process of evaluating any qualified purchaser or lessee elects
219 ~~to sell or lease the hospital,~~ the board shall:

220 (a) ~~Negotiate the terms of the sale or lease with a for-~~
221 ~~profit or not-for-profit Florida corporation and Publicly~~
222 advertise the meeting at which the proposed sale or lease will
223 be considered by the governing board of the hospital in
224 accordance with s. 286.0105; or

225 (b) Publicly advertise the offer to accept proposals in
226 accordance with s. 255.0525 and receive proposals from all
227 ~~interested and~~ qualified purchasers and lessees.

228
229 Any sale or lease must be for fair market value, or, if not for
230 fair market value, the lease must be in the best interest of the
231 affected community. A ~~and any~~ sale or lease must comply with all
232 applicable state and federal antitrust laws.

233 (7) If, upon completion of the evaluation of the benefits
234 of the sale or lease, the governing board determines that it is
235 in the best interest of the affected community to maintain
236 ownership or operation of the hospital or health care system and
237 elects not to consider a sale or lease of the hospital or health
238 care system, the qualified purchaser or lessee shall pay 50
239 percent of the final cost of the evaluation but not more than
240 \$100,000. If, however, the governing board and the qualified
241 purchaser do not agree upon the firm chosen to evaluate the
242 hospital or health care system, the governing board is
243 responsible for the full cost of the evaluation.

244 (8) A determination by the governing board to accept a



413528

245 proposal for sale or lease shall be made after consideration of
246 all proposals received and negotiations with a qualified
247 purchaser or lessee. The governing board's determination must
248 include, in writing, detailed findings of all reasons for
249 accepting the proposal.

250 (a) The governing board's acceptance of a proposal for sale
251 or lease must include a description of how the sale or lease
252 satisfies each of the following requirements:

253 1. The sale or lease represents fair market value, as
254 determined by a certified public accounting firm or other
255 qualified firm pursuant to paragraph (5) (b). If leased at less
256 than fair market value, the governing board shall provide a
257 detailed explanation of how the best interests of the affected
258 community are served by the acceptance of less than fair market
259 value for the lease of the hospital.

260 2. Acceptance of the proposal will result in a reduction or
261 elimination of ad valorem or other taxes for taxpayers in the
262 district, if applicable.

263 3. The proposal includes an enforceable commitment that
264 programs and services and quality health care will continue to
265 be provided to all residents of the affected community,
266 particularly to the indigent, the uninsured, and the
267 underinsured.

268 4. Disclosure has been made of all conflicts of interest,
269 including, but not limited to, whether the sale or lease of the
270 hospital would result in a special private gain or loss to
271 members of the governing board or key management employees or
272 members of the medical staff of the county, district, or
273 municipal hospital, or if governing board members will be



413528

274 serving on the board of any successor private corporation.
275 Conflicts of interest, if any, with respect to experts retained
276 by the governing board shall also be disclosed.

277 5. Disclosure has been made by the seller or lessor of all
278 contracts with physicians or other entities providing health
279 care services through a contract with the seller or lessor,
280 including all agreements or contracts that would be void or
281 voidable upon the consummation of the sale or lease.

282 6. The proposal is in compliance with subsections (9) and
283 (10).

284 (b) The findings must be accompanied by all information and
285 documents relevant to the governing board's determination,
286 including, but not limited to:

287 1. The names and addresses of all parties to the
288 transaction.

289 2. The location of the hospital and all related facilities.

290 3. A description of the terms of all proposed agreements.

291 4. A copy of the proposed sale or lease agreement and any
292 related agreements, including, but not limited to, leases,
293 management contracts, service contracts, and memoranda of
294 understanding.

295 5. The estimated total value associated with the proposed
296 agreement and the proposed acquisition price.

297 6. Any valuations of the hospital's assets prepared during
298 the 3 years immediately preceding the proposed transaction date.

299 7. The fair market value analysis required by paragraph
300 (5)(b), or any other valuation prepared at the request of the
301 board, owner of the hospital or health care system, or managing
302 entity of the hospital or health care system.



413528

303 8. Copies of all other proposals and bids that the
304 governing board may have received or considered in compliance
305 with subsection (6).

306 (9) Within 120 days before the anticipated closing date of
307 the proposed transaction, the governing board shall make
308 publicly available all findings and documents required under
309 subsection (8) and publish a notice of the proposed transaction
310 in one or more newspapers of general circulation in the county
311 in which the majority of the physical assets of the hospital are
312 located. The notice must include the names of the parties
313 involved and the means by which a person may submit written
314 comments about the proposed transaction to the governing board
315 and obtain copies of the findings and documents required under
316 subsection (8).

317 (10) Within 20 days after the date of publication of the
318 public notice, any person may submit to the governing board
319 written comments regarding the proposed transaction.

320 (11) The sale or lease of the hospital is subject to
321 approval by the Chief Financial Officer or his or her designee,
322 except, if otherwise required by law, approval of the sale or
323 lease shall exclusively be by majority vote of the registered
324 voters in the county, district, or municipality in which the
325 hospital is located.

326 (a) The governing board shall file a petition with the
327 state Chief Financial Officer seeking approval of the proposed
328 transaction at least 30 days after publication of the notice of
329 the proposed transaction.

330 (b) The petition for approval filed by the governing board
331 must include all findings and documents required under



413528

332 subsection (8) and certification by the governing board of
333 compliance with all requirements of this section. The chair of
334 the governing board must certify under oath and subject to the
335 penalty of perjury on a form accompanying the petition that the
336 contents of the petition and representations therein are true
337 and correct.

338 (12) Within 30 days of receiving the petition, the Chief
339 Financial Officer or his or her designee shall issue a final
340 order approving or denying the proposed transaction based solely
341 upon consideration of whether the procedures contained within
342 this section have been followed by the governing board of the
343 county, district, or municipal hospital. The order shall require
344 the governing board to accept or reject the proposal for the
345 sale or lease of the county, district, or municipal hospital
346 based upon a determination that:

347 (a) The proposed transaction is permitted by law.

348 (b) The proposed transaction does not unreasonably exclude
349 a potential purchaser or lessee on the basis of being a for-
350 profit or a not-for-profit Florida corporation or other form of
351 business organization, such as a partnership or limited
352 liability company.

353 (c) The governing board of the hospital publicly advertised
354 the meeting at which the proposed transaction was considered by
355 the board in compliance with s. 286.0105.

356 (d) The governing board of the hospital publicly advertised
357 the offer to accept proposals in compliance with s. 255.0525.

358 (e) Any conflict of interest was disclosed, including, but
359 not limited to, how the proposed transaction could result in a
360 special private gain or loss to members of the governing board



413528

361 or key management employees of the county, district, or
362 municipal hospital, or if governing board members will be
363 serving on the board of any successor private corporation.
364 Conflicts of interest, if any, with respect to experts retained
365 by the governing board shall also be disclosed.

366 (f) The seller or lessor documented that it will receive
367 fair market value for the sale or lease of the assets as
368 indicated in paragraph (5) (b) or, if leased at less than fair
369 market value, the governing board provided a detailed
370 explanation of how the best interests of the affected community
371 are served by the acceptance of less than fair market value for
372 the lease of the hospital.

373 (g) The acquiring entity has made an enforceable commitment
374 that programs and services and quality health care will continue
375 to be provided to all residents of the affected community,
376 particularly to the indigent, the uninsured, and the
377 underinsured.

378 (h) The governing board disclosed whether the sale or lease
379 will result in a reduction or elimination of ad valorem or other
380 taxes used to support the hospital.

381 (13) Any interested party to the action has the right to
382 seek judicial review of the decision in the appellate district
383 where the hospital is located or in the First District Court of
384 Appeal pursuant to s. 120.68.

385 (a) All proceedings shall be instituted by filing a notice
386 of appeal in accordance with the Florida Rules of Appellate
387 Procedure within 30 days after the date of the final order.

388 (b) In such judicial review, the appellate court shall
389 affirm the decision of the Chief Financial Officer, unless the



413528

390 decision by the Chief Financial Officer is shown to be clearly
391 erroneous.

392 (14) All costs shall be paid by the governing board, unless
393 an interested party contests the action, in which case the court
394 may assign costs equitably to the parties.

395 (15) If any provision of subsection (5), subsection (6), or
396 subsection (8) is not followed, the contract for sale or lease
397 is voidable by any party to the contract. If any member of the
398 governing board negligently or willfully violates subsection
399 (5), subsection (6), or subsection (7), as determined by the
400 Commission on Ethics after receipt of a sworn complaint pursuant
401 to s. 112.322, the member is subject to a penalty, as determined
402 by the Commission on Ethics pursuant to s. 112.317.

403 (16) If a county, district, or municipal hospital is sold
404 or leased, the governing board shall:

405 (a) Deposit 50 percent of the net proceeds of the sale or
406 lease into a health care economic development trust fund, which
407 shall be under the control of the county commission of the
408 county in which the property is located. The use and
409 distribution of the funds shall be at the discretion of a
410 majority of the county commission, the members of which shall
411 serve as trustees of the trust fund. The net proceeds in the
412 health care economic development trust fund shall be
413 distributed, in consultation with the Department of Economic
414 Opportunity, to promote job creation in the health care sector
415 of the economy through new or expanded health care business
416 development, new or expanded health care services, or new or
417 expanded health care education programs or commercialization of
418 health care research within the affected community; and



413528

419 (b) Appropriate 50 percent of the net proceeds of the sale
420 or lease for funding the delivery of indigent and uncompensated
421 care on an equitable basis, based on the amount of indigent and
422 uncompensated care provided, to all hospitals within the
423 boundaries of the district.

424
425 For the purposes of this subsection, the term "net proceeds"
426 means the sale price after payment of all district debts and
427 obligations.

428 (17) If a county, district, or municipal hospital is sold
429 or leased to a for-profit corporation or other business entity
430 subject to local taxation, in addition to the distribution of
431 funds as directed in subsection (16):

432 (a) Fifty percent of the resulting county and municipal ad
433 valorem tax revenue from the formerly tax-exempt property shall
434 be distributed by the county commission of the county in which
435 the property is located, in consultation with the Department of
436 Economic Opportunity, for purposes set forth in subsection (16);
437 and

438 (b) Fifty percent of the resulting county and municipal ad
439 valorem tax revenue from the formerly tax-exempt property shall
440 be appropriated by the county commission for the sole purpose of
441 enhancing education and law enforcement programs within the
442 county.

443 ~~(18)(5) If In the event~~ a hospital operated by a for-profit
444 or not-for-profit Florida entity corporation receives annually
445 more than \$100,000 in revenues from the county, district, or
446 municipality that owns the hospital, the Florida entity
447 ~~corporation~~ must be accountable to the county, district, or



413528

448 municipality with respect to the manner in which the funds are
449 expended by either:

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

452 (b) Where there is a contract to provide revenues to the
453 hospital, the term of which is longer than 12 months, the
454 governing board of the county, district, or municipality must be
455 able to modify the contract upon 12 months notice to the
456 hospital.

457
458 A not-for-profit entity ~~corporation~~ that is subject to this
459 subsection and that does not currently comply with the
460 accountability requirements in this subsection shall have 12
461 months after the effective date of this act to modify any
462 contracts with the county, district, or municipality in a manner
463 that is consistent with this subsection.

464 ~~(19)(6)~~ Unless otherwise expressly stated in the lease
465 documents, the transaction involving the sale or lease of a
466 hospital may ~~shall~~ not be construed as:

467 (a) A transfer of a governmental function from the county,
468 district, or municipality to the private purchaser or lessee;

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

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

473 ~~(20)(7)~~ The lessee of a hospital, under this section or any
474 special act of the Legislature, operating under a lease may
475 ~~shall~~ not be construed to be "acting on behalf of" the lessor as
476 that term is used in statute, unless the lease document



413528

477 expressly provides to the contrary.

478 ~~(21)(8)~~(a) If, whenever the sale of a public hospital by a
479 public agency to a private ~~corporation or other private~~ entity
480 pursuant to this section or pursuant to a special act of the
481 Legislature reflects that:

482 1. The private ~~corporation or other private~~ entity
483 purchaser acquires 100 percent ownership in the hospital
484 enterprise;

485 2. The private ~~corporation or other private~~ entity
486 purchases the physical plant of the hospital facility and has
487 complete responsibility for the operation and maintenance of the
488 facility, regardless of ownership of the underlying real
489 property;

490 3. The public agency seller retains no control over
491 decisionmaking or policymaking for the hospital;

492 4. The private ~~corporation or other private~~ entity
493 purchaser receives no funding from the public agency seller
494 other than by contract for services rendered to patients for
495 whom the public agency seller has the responsibility to pay for
496 hospital or medical care;

497 5. The public agency seller makes no substantial investment
498 in or loans to the private entity;

499 6. The private ~~corporation or other private~~ entity
500 purchaser was not created by the public entity seller; and

501 7. The private ~~corporation or other private~~ entity
502 purchaser operates primarily for its own financial interests and
503 not primarily for the interests of the public agency,

504
505 such a sale shall be considered a complete sale of the public



413528

506 agency's interest in the hospital or health care system.
507 (b) A complete sale of a hospital or health care system as
508 described in this subsection may ~~shall~~ not be construed as:
509 1. A transfer of a governmental function from the county,
510 district, or municipality to the private ~~corporation or other~~
511 ~~private~~ entity purchaser;
512 2. Constituting a financial interest of the public agency
513 in the private ~~corporation or other private~~ entity purchaser;
514 3. Making the private ~~corporation or other private~~ entity
515 purchaser an "agency" as that term is used in statutes;
516 4. Making the private ~~corporation or other private~~ entity
517 purchaser an integral part of the public agency's decisionmaking
518 process; or
519 5. Indicating that the private ~~corporation or other private~~
520 entity purchaser is "acting on behalf of a public agency" as
521 that term is used in statute.
522 (22) If the governing board elects to sell or lease any
523 physical property of a county, district, or municipal hospital
524 or health care system and such property generated less than 20
525 percent of the hospital's net revenue within the hospital's or
526 health care system's most recent fiscal year, the sale or lease
527 of such property is exempt from the requirements under
528 subsections (6)-(17). However, the governing board shall
529 publicly advertise the meeting at which the proposed sale or
530 lease of such property will be considered by the governing board
531 of the hospital in accordance with s. 286.0105 or publicly
532 advertise the offer to accept proposals in accordance with s.
533 255.0525 and receive proposals from all qualified purchasers and
534 lessees. The sale or lease of the property must be for fair



413528

535 market value or, if a lease is for less than fair market value,
536 the lease must be in the best interest of the affected
537 community.

538 (23) A county, district, or municipal hospital that has
539 executed a letter of intent to sell or lease the hospital or
540 health care system accepted at a properly noticed public
541 meeting, and whose governing board has voted to approve the
542 letter of intent before December 31, 2011, is not subject to
543 subsections (6)-(17) as long as the final closing of the sale or
544 lease transaction pursuant to the letter of intent occurs before
545 December 31, 2012.

546 Section 2. Section 155.401, Florida Statutes, is created to
547 read:

548 155.401 Power of special taxing district to appropriate
549 proceeds from sale or lease of hospital to economic development
550 trust fund.—Notwithstanding any other general or special law,
551 the purposes for which a special taxing district may appropriate
552 funds from the sale or lease of a hospital to an economic
553 development fund include the promotion and support of economic
554 growth in such district and in the county in which such district
555 is located and the furthering of the purposes of such district,
556 as provided by law.

557 Section 3. To the extent that any general or special law is
558 inconsistent with or otherwise in conflict with this act, such
559 conflicting provisions are specifically superseded by this act.
560 A special tax district, public hospital, or municipal hospital
561 is not exempt from this act.

562 Section 4. Section 395.3036, Florida Statutes, is amended
563 to read:



413528

564 395.3036 Confidentiality of records and meetings of
565 entities ~~corporations~~ that lease public hospitals or other
566 public health care facilities.—The records of a private entity
567 ~~corporation~~ that leases a public hospital or other public health
568 care facility are confidential and exempt from ~~the provisions of~~
569 s. 119.07(1) and s. 24(a), Art. I of the State Constitution, and
570 the meetings of the governing board of a private entity
571 ~~corporation~~ are exempt from s. 286.011 and s. 24(b), Art. I of
572 the State Constitution if ~~when~~ the public lessor complies with
573 the public finance accountability provisions of s. 155.40(18)
574 ~~155.40(5)~~ with respect to the transfer of any public funds to
575 the private lessee and if ~~when~~ the private lessee meets at least
576 three of the five following criteria:

577 (1) The public lessor that owns the public hospital or
578 other public health care facility was not the incorporator or
579 initial member of the private entity ~~corporation~~ that leases the
580 public hospital or other health care facility.

581 (2) The public lessor and the private lessee do not
582 commingle any of their funds in any account maintained by either
583 of them, other than the payment of the rent and administrative
584 fees or the transfer of funds pursuant to subsection (5) ~~(2)~~.

585 (3) Except as otherwise provided by law, the private lessee
586 is not allowed to participate, except as a member of the public,
587 in the decisionmaking process of the public lessor.

588 (4) The lease agreement does not expressly require the
589 lessee to comply with ~~the requirements of~~ ss. 119.07(1) and
590 286.011.

591 (5) The public lessor is not entitled to receive any
592 revenues from the lessee, except for rental or administrative



413528

593 fees due under the lease, and the lessor is not responsible for
594 the debts or other obligations of the lessee.

595 Section 5. This act shall take effect upon becoming a law.

596

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

598 And the title is amended as follows:

599 Delete everything before the enacting clause
600 and insert:

601 A bill to be entitled
602 An act relating to the sale or lease of a county,
603 district, or municipal hospital; amending s. 155.40,
604 F.S.; defining the terms; requiring the governing
605 board of a county, district, or municipal hospital to
606 evaluate the possible benefits to an affected
607 community from the sale or lease of a hospital
608 facility owned by the board to a not-for-profit or
609 for-profit entity within a specified time period;
610 specifying the actions the board must take in
611 evaluating whether to sell or lease the public
612 hospital; requiring the board to determine whether
613 qualified purchasers or lessees exist; specifying the
614 factors that must be considered by the governing board
615 before accepting a proposal to sell or lease the
616 hospital; requiring the board to state in writing its
617 detailed findings related to its decision to accept or
618 reject the proposal; requiring the governing board to
619 make public the required findings and documents and to
620 publish a notice of the proposed transaction in one or
621 more newspapers of general circulation in the county



413528

622 in which the majority of the physical assets of the
623 hospital are located; allowing persons to submit
624 written comments regarding the proposed transaction;
625 providing that the sale or lease is subject to the
626 approval of the Chief Financial Officer; requiring the
627 governing board to file a petition with the Chief
628 Financial Officer seeking approval of the proposed
629 transaction within a specified time period; requiring
630 the Chief Financial Officer or his or her designee to
631 issue a final order approving or denying the proposed
632 transaction; specifying the criteria upon which the
633 Chief Financial Officer must base his or her decision;
634 authorizing an interested party to appeal the decision
635 of the Chief Financial Officer; providing that all
636 costs be paid by the governing board unless an
637 interested party contests the action, in which case
638 the court may assign costs equitably to the parties;
639 providing for the distribution of proceeds from the
640 transaction; exempting the sale or lease of specified
641 physical property of a county, district, or municipal
642 hospital from processes required for the approval of a
643 sale or lease of county, district, or municipal
644 hospital property; providing an exemption from
645 complying with the requirements of the act under
646 certain circumstances; exempting application of the
647 act to hospitals or health care systems for which a
648 letter of intent to sell or lease is executed before a
649 specified date; creating s. 155.401, F.S.; providing
650 that the purposes for which a special taxing district



413528

651 may appropriate funds from the sale or lease of a
652 hospital include the promotion and support of economic
653 growth in the district and county in which the taxing
654 district is located and the furthering of the purposes
655 of the taxing district; providing that any general or
656 special law that is inconsistent with or otherwise in
657 conflict with the act is specifically superseded by
658 the act; amending s. 395.3036, F.S.; conforming cross-
659 references; providing an effective date.