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LEGISLATIVE ACTION

Senate

House

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Floor: 3/AD/2R

03/07/2012 12:08 PM

Senator Gaetz moved the following:

Senate Amendment (with title amendment)

Delete lines 290 - 365

and insert:

(10) The sale or lease of the hospital or health care system is subject to approval by the Secretary of Health Care Administration or his or her designee, except, if otherwise required by law, approval of the sale or lease shall exclusively be by majority vote of the registered voters in the county, district, or municipality in which the hospital or health care system is located.

(a) The governing board shall file a petition with the Secretary of Health Care Administration seeking approval of the



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14 proposed transaction at least 30 days after publication of the
15 notice of the proposed transaction.

16 (b) The petition for approval filed by the governing board
17 must include all findings and documents required under
18 subsection (7) and certification by the governing board of
19 compliance with all requirements of this section. The chair of
20 the governing board must certify under oath and subject to the
21 penalty of perjury on a form accompanying the petition that the
22 contents of the petition and representations therein are true
23 and correct.

24 (11) Within 30 days after receiving the petition, the
25 Secretary of Health Care Administration or his or her designee
26 shall issue a final order approving or denying the proposed
27 transaction based solely upon consideration of whether the
28 procedures contained within this section have been followed by
29 the governing board of the county, district, or municipal
30 hospital or health care system. The order shall require the
31 governing board to accept or reject the proposal for the sale or
32 lease of the county, district, or municipal hospital or health
33 care system based upon a determination that:

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

35 (b) The proposed transaction does not unreasonably exclude
36 a potential purchaser or lessee on the basis of being a for-
37 profit or a not-for-profit Florida corporation or other form of
38 business organization, such as a partnership or limited
39 liability company.

40 (c) The governing board of the hospital or health care
41 system publicly advertised the meeting at which the proposed
42 transaction was considered by the board in compliance with s.



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43 286.0105.

44 (d) The governing board of the hospital or health care
45 system publicly advertised the offer to accept proposals in
46 compliance with s. 255.0525.

47 (e) Any conflict of interest was disclosed, including, but
48 not limited to, how the proposed transaction could result in a
49 special private gain or loss to members of the governing board
50 or key management employees of the county, district, or
51 municipal hospital, or if governing board members will be
52 serving on the board of any successor private corporation.
53 Conflicts of interest, if any, with respect to experts retained
54 by the governing board shall also be disclosed.

55 (f) The seller or lessor documented that it will receive
56 fair market value for the sale or lease of the assets as
57 indicated in paragraph (5)(c) or, if leased at less than fair
58 market value, the governing board provided a detailed
59 explanation of how the best interests of the affected community
60 are served by the acceptance of less than fair market value for
61 the lease of the hospital or health care system.

62 (g) The acquiring entity has made an enforceable commitment
63 that programs and services and quality health care will continue
64 to be provided to all residents of the affected community,
65 particularly to the indigent, the uninsured, and the
66 underinsured.

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

70 (12) Any interested party to the action has the right to
71 seek judicial review of the decision in the appellate district



72 where the hospital is located or in the First District Court of
73 Appeal pursuant to s. 120.68.

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

77 (b) In such judicial review, the appellate court shall
78 affirm the decision of the Secretary of Health Care
79 Administration, unless the decision by the Secretary of Health
80 Care Administration is shown to be clearly erroneous.

81
82 ===== T I T L E A M E N D M E N T =====

83 And the title is amended as follows:

84 Delete lines 25 - 35

85 and insert:

86 sale or lease is subject to the approval of the
87 Secretary of Health Care Administration; requiring the
88 governing board to file a petition with the Secretary
89 of Health Care Administration seeking approval of the
90 proposed transaction within a specified time period;
91 requiring the Secretary of Health Care Administration
92 or his or her designee to issue a final order
93 approving or denying the proposed transaction;
94 specifying the criteria upon which the Secretary of
95 Health Care Administration must base his or her
96 decision; authorizing an interested party to appeal
97 the decision of the Secretary of Health Care
98 Administration; requiring that all costs be paid by