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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2012	.	
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The Committee on Budget Subcommittee on General Government Appropriations (Benacquisto) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. 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 other provision of general or special law, a ~~any~~ county, district, or municipal hospital organized and existing under the



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

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

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

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

38 (c) Provide for the orderly transition of the operation and
39 management of the such facilities;

40 (d) Provide for the return of the such facility to the
41 county, municipality, or district upon the termination of the



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42 ~~such~~ lease, contract, or agreement; and

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

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

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

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

67 (b) "Fair market value" means the price that a seller or
68 lessor is willing to accept and a buyer or lessee is willing to
69 pay on the open market and in an arms-length transaction, or
70 what an independent expert in hospital valuation determines the



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71 fair market value to be.

72 (c) "Interested party" includes a person submitting a
73 proposal for sale or lease of the county, district, or municipal
74 hospital or health care system, as well as the governing board.

75 (5) The governing board of a county, district, or municipal
76 hospital or health care system shall commence an evaluation of
77 the possible benefits to an affected community from the sale or
78 lease of hospital facilities owned by the board to a not-for-
79 profit or for-profit entity no later than December 31, 2012. In
80 the course of evaluating the benefits of the sale or lease, the
81 board shall:

82 (a) Conduct a public hearing to provide interested persons
83 the opportunity to be heard on the matter.

84 (b) Publish notice of the public hearing in one or more
85 newspapers of general circulation in the county in which the
86 majority of the physical assets of the hospital or health care
87 system are located and in the Florida Administrative Weekly at
88 least 15 days before the hearing is scheduled to occur.

89 (c) Contract with a certified public accounting firm or
90 other firm that has substantial expertise in the valuation of
91 hospitals to render an independent valuation of the hospital's
92 fair market value.

93 (d) Consider an objective operating comparison between a
94 hospital or health care system operated by the district, county,
95 or municipality and other similarly situated hospitals, both
96 not-for-profit and for-profit, which have a similar service mix,
97 in order to determine whether there is a difference in the cost
98 of operation using publicly available data provided by the
99 Agency for Health Care Administration and the quality metrics



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100 identified by the Centers for Medicare and Medicaid Services
101 Core Measures. The comparison must determine whether it is more
102 beneficial to taxpayers and the affected community for the
103 hospital to be operated by a governmental entity, or whether the
104 hospital can be operated by a not-for-profit or for-profit
105 entity with similar or better cost-efficiencies or measurable
106 outcomes identified by the Centers for Medicare and Medicaid
107 Services Core Measures. The comparison must also determine
108 whether there is a net benefit to the community to operate the
109 hospital as a not-for-profit or for-profit entity and use the
110 proceeds of the sale or lease for the purposes described in this
111 section.

112 (e) Make publicly available all documents considered by the
113 board in the course of such evaluation.

114 1. Within 160 days after the initiation of the process
115 established in subsection (5), the governing board shall publish
116 notice of the board's findings in one or more newspapers of
117 general circulation in the county in which the majority of the
118 physical assets of the hospital are located and in the Florida
119 Administrative Weekly.

120 2. This evaluation is not required if a district, county,
121 or municipal hospital has issued a public request for proposals
122 for the sale or lease of a hospital on or before February 1,
123 2012, for the purpose of receiving proposals from qualified
124 purchasers or lessees, either not-for-profit or for-profit.

125 (6)(4) If, upon completion of the evaluation of the
126 benefits of the sale or lease, ~~In the event~~ the governing board
127 of a county, district, or municipal hospital determines that it
128 is no longer in the best interest of the affected community to



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129 own or operate a hospital or health care system and elects to
130 consider a sale or lease of the hospital or health care system
131 to a third party, the governing board must first determine
132 whether there are any qualified purchasers or lessees. In the
133 process of evaluating any qualified purchaser or lessee elects
134 ~~to sell or lease the hospital,~~ the board shall:

135 (a) ~~Negotiate the terms of the sale or lease with a for-~~
136 ~~profit or not-for-profit Florida corporation and Publicly~~
137 advertise the meeting at which the proposed sale or lease will
138 be considered by the governing board of the hospital in
139 accordance with s. 286.0105; or

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

143
144 Any sale or lease must be for fair market value, or, if not for
145 fair market value, the lease must be in the best interest of the
146 affected community. A and any sale or lease must comply with all
147 applicable state and federal antitrust laws.

148 (7) A determination by the governing board to accept a
149 proposal for sale or lease shall be made after consideration of
150 all proposals received and negotiations with a qualified
151 purchaser or lessee. The governing board's determination must
152 include, in writing, detailed findings of all reasons for
153 accepting the proposal.

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

157 1. The sale or lease represents fair market value, as



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158 determined by a certified public accounting firm or other
159 qualified firm pursuant to subsection(5). If leased at less than
160 fair market value, the governing board shall provide a detailed
161 explanation of how the best interests of the affected community
162 are served by the acceptance of less than fair market value for
163 the lease of the hospital.

164 2. Acceptance of the proposal will result in a reduction or
165 elimination of ad valorem or other taxes for taxpayers in the
166 district, if applicable.

167 3. The proposal includes an enforceable commitment that
168 programs and services and quality health care will continue to
169 be provided to all residents of the affected community,
170 particularly to the indigent, the uninsured, and the
171 underinsured.

172 4. Disclosure has been made of all conflicts of interest,
173 including, but not limited to, whether the sale or lease of the
174 hospital or health care system would result in a special private
175 gain or loss to members of the governing board or key management
176 employees or members of the medical staff of the county,
177 district, or municipal hospital, or if governing board members
178 will be serving on the board of any successor private
179 corporation. Conflicts of interest, if any, with respect to
180 experts retained by the governing board shall also be disclosed.

181 5. Disclosure has been made by the seller or lessor of all
182 contracts with physicians or other entities providing health
183 care services through a contract with the seller or lessor,
184 including all agreements or contracts that would be void or
185 voidable upon the consummation of the sale or lease.

186 6. The proposal is in compliance with subsections (8) and



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187 (9).

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

191 1. The names and addresses of all parties to the
192 transaction.

193 2. The location of the hospital or health care system and
194 all related facilities.

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

196 4. A copy of the proposed sale or lease agreement and any
197 related agreements, including, but not limited to, leases,
198 management contracts, service contracts, and memoranda of
199 understanding.

200 5. The estimated total value associated with the proposed
201 agreement and the proposed acquisition price.

202 6. Any valuations of the hospital's or health care system's
203 assets prepared during the 3 years immediately preceding the
204 proposed transaction date.

205 7. The fair market value analysis required by paragraph
206 (5) (c), or any other valuation prepared at the request of the
207 board, owner of the hospital or health care system, or managing
208 entity of the hospital or health care system.

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

212 (8) Within 120 days before the anticipated closing date of
213 the proposed transaction, the governing board shall make
214 publicly available all findings and documents required under
215 subsection (7) and publish a notice of the proposed transaction



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216 in one or more newspapers of general circulation in the county
217 in which the majority of the physical assets of the hospital or
218 health care system are located. The notice must include the
219 names of the parties involved and the means by which a person
220 may submit written comments about the proposed transaction to
221 the governing board and obtain copies of the findings and
222 documents required under subsection (7).

223 (9) Within 20 days after the date of publication of the
224 public notice, any person may submit to the governing board
225 written comments regarding the proposed transaction.

226 (10) The sale or lease of the hospital or health care
227 system is subject to approval by the Chief Financial Officer or
228 his or her designee, except, if otherwise required by law,
229 approval of the sale or lease shall exclusively be by majority
230 vote of the registered voters in the county, district, or
231 municipality in which the hospital or health care system is
232 located.

233 (a) The governing board shall file a petition with the
234 state Chief Financial Officer seeking approval of the proposed
235 transaction at least 30 days after publication of the notice of
236 the proposed transaction.

237 (b) The petition for approval filed by the governing board
238 must include all findings and documents required under
239 subsection (7) and certification by the governing board of
240 compliance with all requirements of this section. The chair of
241 the governing board must certify under oath and subject to the
242 penalty of perjury on a form accompanying the petition that the
243 contents of the petition and representations therein are true
244 and correct.



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245 (11) Within 30 days of receiving the petition, the Chief
246 Financial Officer or his or her designee shall issue a final
247 order approving or denying the proposed transaction based solely
248 upon consideration of whether the procedures contained within
249 this section have been followed by the governing board of the
250 county, district, or municipal hospital or health care system.
251 The order shall require the governing board to accept or reject
252 the proposal for the sale or lease of the county, district, or
253 municipal hospital or health care system based upon a
254 determination that:

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

256 (b) The proposed transaction does not unreasonably exclude
257 a potential purchaser or lessee on the basis of being a for-
258 profit or a not-for-profit Florida corporation or other form of
259 business organization, such as a partnership or limited
260 liability company.

261 (c) The governing board of the hospital or health care
262 system publicly advertised the meeting at which the proposed
263 transaction was considered by the board in compliance with s.
264 286.0105.

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

268 (e) Any conflict of interest was disclosed, including, but
269 not limited to, how the proposed transaction could result in a
270 special private gain or loss to members of the governing board
271 or key management employees of the county, district, or
272 municipal hospital, or if governing board members will be
273 -serving on the board of any successor private corporation.



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274 Conflicts of interest, if any, with respect to experts retained
275 by the governing board shall also be disclosed.

276 (f) The seller or lessor documented that it will receive
277 fair market value for the sale or lease of the assets as
278 indicated in paragraph (5)(c) or, if leased at less than fair
279 market value, the governing board provided a detailed
280 explanation of how the best interests of the affected community
281 are served by the acceptance of less than fair market value for
282 the lease of the hospital or health care system.

283 (g) The acquiring entity has made an enforceable commitment
284 that programs and services and quality health care will continue
285 to be provided to all residents of the affected community,
286 particularly to the indigent, the uninsured, and the
287 underinsured.

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

291 (12) Any interested party to the action has the right to
292 seek judicial review of the decision in the appellate district
293 where the hospital is located or in the First District Court of
294 Appeal pursuant to s. 120.68.

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

298 (b) In such judicial review, the appellate court shall
299 affirm the decision of the Chief Financial Officer, unless the
300 decision by the Chief Financial Officer is shown to be clearly
301 erroneous.

302 (13) All costs shall be paid by the governing board, unless



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303 an interested party contests the action, in which case the court
304 may assign costs equitably to the parties.

305 (14) If any provision of subsection (5), subsection (6), or
306 subsection (7) is not followed, the contract for sale or lease
307 is voidable by any party to the contract. If any member of the
308 governing board negligently or willfully violates subsection
309 (5), subsection (6), or subsection (7), as determined by the
310 Commission on Ethics after receipt of a sworn complaint pursuant
311 to s. 112.322, the member is subject to a penalty, as determined
312 by the Commission on Ethics pursuant to s. 112.317.

313 (15) If a county, district, or municipal hospital is sold,
314 any and all special district tax authority associated with the
315 hospital subject to the sale shall cease on the effective date
316 of the closing date of the sale. Any special law inconsistent
317 with this subsection is superseded by this act.

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

320 (a) Deposit 50 percent of the net proceeds of the sale or
321 lease into a health care economic development trust fund, which
322 shall be under the control of the county commission of the
323 county in which the property is located, if the hospital is a
324 county hospital or district hospital whose geographic boundaries
325 extend beyond a single municipality, or, if the hospital is a
326 municipal hospital or district hospital whose geographic
327 boundaries lie entirely within a single municipality, under the
328 control of the city or municipal government in which the
329 hospital is located. The use and distribution of the funds shall
330 be at the discretion of a majority of the county commission if
331 the hospital is a county hospital or district hospital whose



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332 geographic boundaries extend beyond a single municipality, or,
333 if the hospital is a municipal hospital or district hospital
334 whose geographic boundaries lie entirely within a single
335 municipality, at the discretion of a majority of the members of
336 the municipal government. The members of the county commission
337 or the municipal government, depending on the type of hospital
338 being sold, shall serve as trustees of the trust fund. The net
339 proceeds in the health care economic development trust fund
340 shall be distributed, in consultation with the Department of
341 Economic Opportunity, to promote job creation in the health care
342 sector of the economy through new or expanded health care
343 business development, new or expanded health care services, or
344 new or expanded health care education programs or
345 commercialization of health care research within the affected
346 community; and

347 (b) Appropriate 50 percent of the net proceeds of the sale
348 or lease for funding the delivery of indigent care, including
349 but not limited to primary care, physician specialty care, out-
350 patient care, in-patient care and behavioral health, to
351 hospitals within the boundaries of the district with
352 consideration given to the levels of indigent care provided.

353
354 For the purposes of this subsection, the term "net proceeds"
355 means the sale price after payment of all district debts and
356 obligations.

357 (17) If a county, district, or municipal hospital or health
358 care system is sold or leased to a for-profit corporation or
359 other business entity subject to local taxation, the resulting
360 county and municipal ad valorem tax revenue from the formerly



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361 tax-exempt property shall be distributed by the county
362 commission of the county in which the property is located, if
363 the hospital is a county hospital or district hospital whose
364 geographic boundaries extend beyond a single municipality, or,
365 if the hospital is a municipal hospital or district hospital
366 whose geographic boundaries lie entirely within a single
367 municipality, such ad valorem tax revenues shall be distributed
368 by the municipal government. The distribution of such ad valorem
369 tax revenues shall be made in consultation with the Department
370 of Economic Opportunity, for purposes set forth in subsection
371 (16).

372 (18) ~~(5)~~ If In the event a hospital operated by a for-profit
373 or not-for-profit Florida entity corporation receives annually
374 more than \$100,000 in revenues from the county, district, or
375 municipality that owns the hospital, the Florida entity
376 ~~corporation~~ must be accountable to the county, district, or
377 municipality with respect to the manner in which the funds are
378 expended by either:

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

381 (b) Where there is a contract to provide revenues to the
382 hospital, the term of which is longer than 12 months, the
383 governing board of the county, district, or municipality must be
384 able to modify the contract upon 12 months notice to the
385 hospital.

386
387 A not-for-profit entity corporation that is subject to this
388 subsection and that does not currently comply with the
389 accountability requirements in this subsection shall have 12



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390 months after the effective date of this act to modify any
391 contracts with the county, district, or municipality in a manner
392 that is consistent with this subsection.

393 (19)~~(6)~~ Unless otherwise expressly stated in the lease
394 documents, the transaction involving the sale or lease of a
395 hospital may ~~shall~~ not be construed as:

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

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

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

402 (20)~~(7)~~ The lessee of a hospital, under this section or any
403 special act of the Legislature, operating under a lease may
404 ~~shall~~ not be construed to be "acting on behalf of" the lessor as
405 that term is used in statute, unless the lease document
406 expressly provides to the contrary.

407 (21)~~(8)~~ (a) If, whenever the sale of a public hospital by a
408 public agency to a private ~~corporation or other private~~ entity
409 pursuant to this section or pursuant to a special act of the
410 Legislature reflects that:

411 1. The private ~~corporation or other private~~ entity
412 purchaser acquires 100 percent ownership in the hospital
413 enterprise;

414 2. The private ~~corporation or other private~~ entity
415 purchases the physical plant of the hospital facility and has
416 complete responsibility for the operation and maintenance of the
417 facility, regardless of ownership of the underlying real
418 property;



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- 419 3. The public agency seller retains no control over
420 decisionmaking or policymaking for the hospital;
- 421 4. The private ~~corporation or other private~~ entity
422 purchaser receives no funding from the public agency seller
423 other than by contract for services rendered to patients for
424 whom the public agency seller has the responsibility to pay for
425 hospital or medical care;
- 426 5. The public agency seller makes no substantial investment
427 in or loans to the private entity;
- 428 6. The private ~~corporation or other private~~ entity
429 purchaser was not created by the public entity seller; and
- 430 7. The private ~~corporation or other private~~ entity
431 purchaser operates primarily for its own financial interests and
432 not primarily for the interests of the public agency,
433
434 such a sale shall be considered a complete sale of the public
435 agency's interest in the hospital or health care system.
- 436 (b) A complete sale of a hospital or health care system as
437 described in this subsection may ~~shall~~ not be construed as:
- 438 1. A transfer of a governmental function from the county,
439 district, or municipality to the private ~~corporation or other~~
440 ~~private~~ entity purchaser;
- 441 2. Constituting a financial interest of the public agency
442 in the private ~~corporation or other private~~ entity purchaser;
- 443 3. Making the private ~~corporation or other private~~ entity
444 purchaser an "agency" as that term is used in statutes;
- 445 4. Making the private ~~corporation or other private~~ entity
446 purchaser an integral part of the public agency's decisionmaking
447 process; or



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448 5. Indicating that the private ~~corporation or other private~~
449 entity purchaser is "acting on behalf of a public agency" as
450 that term is used in statute.

451 (22) If the governing board elects to sell or lease any
452 physical property of a county, district, or municipal hospital
453 or health care system and such property generated less than 20
454 percent of the hospital's net revenue within the hospital's or
455 health care system's most recent fiscal year, the sale or lease
456 of such property is exempt from the requirements under
457 subsections (6)-(15). However, the governing board shall
458 publicly advertise the meeting at which the proposed sale or
459 lease of such property will be considered by the governing board
460 of the hospital in accordance with s. 286.0105 or publicly
461 advertise the offer to accept proposals in accordance with s.
462 255.0525 and receive proposals from all qualified purchasers and
463 lessees. The sale or lease of the property must be for fair
464 market value or, if a lease is for less than fair market value,
465 the lease must be in the best interest of the affected
466 community.

467 (23) A county, district or municipal hospital or health
468 care system that is under lease as of the effective date of this
469 act is not subject to subsections (5)-(16) as long as that lease
470 remains in effect in accordance with the terms of the lease or
471 such lease is modified, extended or renewed. Any such hospital
472 or health care system, however, becomes subject to the
473 provisions of this act upon:

474 (a) Termination of the lease, unless the lease termination
475 is the direct result of a new lease involving a partnership,
476 transaction or contract in which both the existing lessor and



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477 lessee agree to the new lease between the lessor and another
478 mutually agreed upon entity;

479 (b) Notification provided to the lessee of a planned
480 termination of the lease in accordance with the lease terms,
481 unless the notification of lease termination is the direct
482 result of a new lease involving a partnership, transaction or
483 contract in which both the existing lessor and lessee agree to
484 the new lease between the lessor and another mutually agreed
485 upon entity;

486 (c) Notification to the lessee that upon termination of the
487 lease the lessor plans to seek potential new lessees or buyers;
488 or

489 (d) Notification to the lessee that the lessor plans to
490 resume operation of the hospital or health care system at the
491 termination of the lease.

492
493 Any such hospital or health care system may not thereafter be
494 sold, leased to another lessee, or operated by the owner without
495 first complying with this act.

496 (24) A county, district, or municipal hospital or health
497 care system that has executed a letter of intent to sell or
498 lease the hospital or health care system accepted at a properly
499 noticed public meeting, and whose governing board has voted to
500 approve the letter of intent before December 31, 2011, is not
501 subject to subsections (6)-(17) as long as the final closing of
502 the sale or lease transaction pursuant to the letter of intent
503 occurs before December 31, 2012.

504 Section 2. Section 155.401, Florida Statutes, is created to
505 read:



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506 155.401 Power of special taxing district to appropriate
507 proceeds from sale or lease of hospital or health care system to
508 economic development trust fund.—Notwithstanding any other
509 general or special law, the purposes for which a special taxing
510 district may appropriate funds from the sale or lease of a
511 hospital or health care system to an economic development fund
512 include the promotion and support of economic growth in such
513 district and in the county in which such district is located and
514 the furthering of the purposes of such district, as provided by
515 law.

516 Section 3. To the extent that any general or special law is
517 inconsistent with or otherwise in conflict with this act, such
518 conflicting provisions are specifically superseded by this act.
519 A special tax district, public hospital, or municipal hospital
520 is not exempt from this act.

521 Section 4. Subsection (1) of section 395.002, Florida
522 Statutes, is amended to read:

523 395.002 Definitions.—As used in this chapter:

524 (1) "Accrediting organizations" means national
525 accreditation organizations that are approved by the Centers for
526 Medicare and Medicaid Services and whose standards incorporate
527 comparable licensure regulations required by the state ~~the Joint~~
528 ~~Commission on Accreditation of Healthcare Organizations, the~~
529 ~~American Osteopathic Association, the Commission on~~
530 ~~Accreditation of Rehabilitation Facilities, and the~~
531 ~~Accreditation Association for Ambulatory Health Care, Inc.~~

532 Section 5. For the purpose of incorporating the amendment
533 made by this act to section 395.002, Florida Statutes, in a
534 reference thereto, paragraph (c) of subsection (2) of section



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535 395.003, Florida Statutes, is reenacted to read:

536 395.003 Licensure; denial, suspension, and revocation.—

537 (2)

538 (c) Intensive residential treatment programs for children
539 and adolescents which have received accreditation from an
540 accrediting organization as defined in s. 395.002(1) and which
541 meet the minimum standards developed by rule of the agency for
542 such programs shall be licensed by the agency under this part.

543 Section 6. Section 395.3036, Florida Statutes, is amended
544 to read:

545 395.3036 Confidentiality of records and meetings of
546 entities ~~corporations~~ that lease public hospitals or other
547 public health care facilities.—The records of a private entity
548 ~~corporation~~ that leases a public hospital or other public health
549 care facility are confidential and exempt from ~~the provisions of~~
550 s. 119.07(1) and s. 24(a), Art. I of the State Constitution, and
551 the meetings of the governing board of a private entity
552 ~~corporation~~ are exempt from s. 286.011 and s. 24(b), Art. I of
553 the State Constitution if when the public lessor complies with
554 the public finance accountability provisions of s. 155.40(18)
555 ~~155.40(5)~~ with respect to the transfer of any public funds to
556 the private lessee and if when the private lessee meets at least
557 three of the five following criteria:

558 (1) The public lessor that owns the public hospital or
559 other public health care facility was not the incorporator or
560 initial member of the private entity ~~corporation~~ that leases the
561 public hospital or other health care facility.

562 (2) The public lessor and the private lessee do not
563 commingle any of their funds in any account maintained by either



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564 of them, other than the payment of the rent and administrative
565 fees or the transfer of funds pursuant to subsection (5) ~~(2)~~.

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

569 (4) The lease agreement does not expressly require the
570 lessee to comply with ~~the requirements of~~ ss. 119.07(1) and
571 286.011.

572 (5) The public lessor is not entitled to receive any
573 revenues from the lessee, except for rental or administrative
574 fees due under the lease, and the lessor is not responsible for
575 the debts or other obligations of the lessee.

576 Section 7. This act shall take effect upon becoming a law.

577
578 ===== T I T L E A M E N D M E N T =====

579 And the title is amended as follows:

580
581 Delete everything before the enacting clause
582 and insert:

583 A bill to be entitled
584 An act relating to the sale or lease of a county,
585 district, or municipal hospital; amending s. 155.40,
586 F.S.; defining the terms; requiring that the governing
587 board of a county, district, or municipal hospital
588 evaluate the possible benefits to an affected
589 community from the sale or lease of the hospital
590 facility to a not-for-profit or for-profit entity
591 within a specified time period; specifying the actions
592 the board must take in evaluating whether to sell or



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593 lease the public hospital; requiring the board to
594 determine whether qualified purchasers or lessees
595 exist; specifying the factors that must be considered
596 by the governing board before accepting a proposal to
597 sell or lease the hospital; requiring the board to
598 state in writing detailed findings related to its
599 decision to accept or reject the proposal; requiring
600 the governing board to make public the required
601 findings and documents and to publish a notice of the
602 proposed transaction in one or more newspapers of
603 general circulation in the county in which the
604 majority of the physical assets of the hospital are
605 located; allowing persons to submit written comments
606 regarding the proposed transaction; providing that the
607 sale or lease is subject to the approval of the Chief
608 Financial Officer; requiring the governing board to
609 file a petition with the Chief Financial Officer
610 seeking approval of the proposed transaction within a
611 specified time period; requiring the Chief Financial
612 Officer or his or her designee to issue a final order
613 approving or denying the proposed transaction;
614 specifying the criteria upon which the Chief Financial
615 Officer must base his or her decision; authorizing an
616 interested party to appeal the decision of the Chief
617 Financial Officer; requiring that all costs be paid by
618 the governing board unless an interested party
619 contests the action, in which case the court may
620 assign costs equitably to the parties; providing for
621 the distribution of proceeds from the transaction;



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622 exempting the sale or lease of specified physical
623 property of a county, district, or municipal hospital
624 from processes required for the approval of a sale or
625 lease of county, district, or municipal hospital
626 property; providing an exemption from complying with
627 the requirements of the act under certain
628 circumstances; exempting application of the act to
629 hospitals or health care systems for which a letter of
630 intent to sell or lease is executed before a specified
631 date; creating s. 155.401, F.S.; providing that the
632 purposes for which a special taxing district may
633 appropriate funds from the sale or lease of a hospital
634 or health care system include the promotion and
635 support of economic growth in the district and county
636 in which the taxing district is located and the
637 furthering of the purposes of the taxing district;
638 providing that any general or special law that is
639 inconsistent with or otherwise in conflict with the
640 act is specifically superseded by the act; amending s.
641 395.002, F.S.; revising the definition of the term
642 "accrediting organizations"; reenacting s.
643 395.003(2)(c), F.S., relating to licensure and
644 regulation of hospitals, to incorporate the amendment
645 made to s. 395.002, F.S., in a reference thereto;
646 amending s. 395.3036, F.S.; conforming cross-
647 references; providing an effective date.