



408312

LEGISLATIVE ACTION

Senate	.	House
	.	
	.	
Floor: 1/AD/2R	.	Floor: SEN1/C
03/07/2012 12:15 PM	.	03/07/2012 05:49 PM
	.	

Senator Gaetz moved 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
laws of this state, acting by and through its governing board,



408312

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
42 such lease, contract, or agreement; and



408312

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. It is the intent of
50 the Legislature that this section ~~does~~ not impose any further
51 requirements with respect to the formation of any for-profit or
52 not-for-profit Florida entity ~~corporation~~, the composition of
53 the board of directors of any Florida entity ~~corporation~~, or the
54 manner in which control of the hospital is transferred to the
55 Florida entity ~~corporation~~.

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

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

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

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



408312

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

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

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

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

90 (d) Consider an objective operating comparison between a
91 hospital or health care system operated by the district, county,
92 or municipality and other similarly situated hospitals, both
93 not-for-profit and for-profit, which have a similar service mix,
94 in order to determine whether there is a difference in the cost
95 of operation using publicly available data provided by the
96 Agency for Health Care Administration and the quality metrics
97 identified by the Centers for Medicare and Medicaid Services
98 Core Measures. The comparison must determine whether it is more
99 beneficial to taxpayers and the affected community for the
100 hospital to be operated by a governmental entity, or whether the



408312

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

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

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

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

122 (6)(4) If, upon completion of the evaluation of the
123 benefits of the sale or lease, ~~In the event~~ the governing board
124 of a county, district, or municipal hospital determines that it
125 is no longer in the best interest of the affected community to
126 own or operate a hospital or health care system and elects to
127 consider a sale or lease of the hospital or health care system
128 to a third party, the governing board must first determine
129 whether there are any qualified purchasers or lessees. In the



408312

130 process of evaluating any qualified purchaser or lessee elects
131 ~~to sell or lease the hospital,~~ the board shall:

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

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

140
141 Any sale or lease must be for fair market value, or, if not for
142 fair market value, the lease must be in the best interest of the
143 affected community. A and any sale or lease must comply with all
144 applicable state and federal antitrust laws.

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

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

154 1. The sale or lease represents fair market value, as
155 determined by a certified public accounting firm or other
156 qualified firm pursuant to subsection(5). If leased at less than
157 fair market value, the governing board shall provide a detailed
158 explanation of how the best interests of the affected community



408312

159 are served by the acceptance of less than fair market value for
160 the lease of the hospital.

161 2. Acceptance of the proposal will result in a reduction or
162 elimination of ad valorem or other taxes for taxpayers in the
163 district, if applicable.

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

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

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

183 6. The proposal is in compliance with subsections (8) and
184 (9).

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



408312

188 1. The names and addresses of all parties to the
189 transaction.

190 2. The location of the hospital or health care system and
191 all related facilities.

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

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

197 5. The estimated total value associated with the proposed
198 agreement and the proposed acquisition price.

199 6. Any valuations of the hospital's or health care system's
200 assets prepared during the 3 years immediately preceding the
201 proposed transaction date.

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

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

209 (8) Within 120 days before the anticipated closing date of
210 the proposed transaction, the governing board shall make
211 publicly available all findings and documents required under
212 subsection (7) and publish a notice of the proposed transaction
213 in one or more newspapers of general circulation in the county
214 in which the majority of the physical assets of the hospital or
215 health care system are located. The notice must include the
216 names of the parties involved and the means by which a person



408312

217 may submit written comments about the proposed transaction to
218 the governing board and obtain copies of the findings and
219 documents required under subsection (7).

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

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

230 (a) The governing board shall file a petition with the
231 Secretary of Health Care Administration seeking approval of the
232 proposed transaction at least 30 days after publication of the
233 notice of the proposed transaction.

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

242 (11) Within 30 days after receiving the petition, the
243 Secretary of Health Care Administration or his or her designee
244 shall issue a final order approving or denying the proposed
245 transaction based solely upon consideration of whether the



408312

246 procedures contained within this section have been followed by
247 the governing board of the county, district, or municipal
248 hospital or health care system. The order shall require the
249 governing board to accept or reject the proposal for the sale or
250 lease of the county, district, or municipal hospital or health
251 care system based upon a determination that:

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

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

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

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

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

273 (f) The seller or lessor documented that it will receive
274 fair market value for the sale or lease of the assets as



408312

275 indicated in paragraph (5)(c) or, if leased at less than fair
276 market value, the governing board provided a detailed
277 explanation of how the best interests of the affected community
278 are served by the acceptance of less than fair market value for
279 the lease of the hospital or health care system.

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

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

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

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

295 (b) In such judicial review, the appellate court shall
296 affirm the decision of the Secretary of Health Care
297 Administration, unless the decision by the Secretary of Health
298 Care Administration is shown to be clearly erroneous.

299 (13) All costs shall be paid by the governing board, unless
300 an interested party contests the action, in which case the court
301 may assign costs equitably to the parties.

302 (14) If any provision of subsection (5), subsection (6), or
303 subsection (7) is not followed, the contract for sale or lease



408312

304 is voidable by any party to the contract. If any member of the
305 governing board negligently or willfully violates subsection
306 (5), subsection (6), or subsection (7), as determined by the
307 Commission on Ethics after receipt of a sworn complaint pursuant
308 to s. 112.322, the member is subject to a penalty, as determined
309 by the Commission on Ethics pursuant to s. 112.317.

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

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

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



408312

333 the municipal government. The members of the county commission
334 or the municipal government, depending on the type of hospital
335 being sold, shall serve as trustees of the trust fund. The net
336 proceeds in the health care economic development trust fund
337 shall be distributed, in consultation with the Department of
338 Economic Opportunity, to promote job creation in the health care
339 sector of the economy through new or expanded health care
340 business development, new or expanded health care services, or
341 new or expanded health care education programs or
342 commercialization of health care research within the affected
343 community; and

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

350
351 For the purposes of this subsection, the term "net proceeds"
352 means the sale price after payment of all district debts and
353 obligations.

354 (17) If a county, district, or municipal hospital or health
355 care system is sold or leased to a for-profit corporation or
356 other business entity subject to local taxation, the resulting
357 county and municipal ad valorem tax revenue from the formerly
358 tax-exempt property shall be distributed by the county
359 commission of the county in which the property is located, if
360 the hospital is a county hospital or district hospital whose
361 geographic boundaries extend beyond a single municipality, or,



408312

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

369 ~~(18)(5)~~ If In the event a hospital operated by a for-profit
370 or not-for-profit Florida entity corporation receives annually
371 more than \$100,000 in revenues from the county, district, or
372 municipality that owns the hospital, the Florida entity
373 ~~corporation~~ must be accountable to the county, district, or
374 municipality with respect to the manner in which the funds are
375 expended by either:

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

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

383
384 A not-for-profit entity corporation that is subject to this
385 subsection and ~~that~~ does not currently comply with the
386 accountability requirements in this subsection shall have 12
387 months after the effective date of this act to modify any
388 contracts with the county, district, or municipality in a manner
389 that is consistent with this subsection.

390 ~~(19)(6)~~ Unless otherwise expressly stated in the lease



408312

391 documents, the transaction involving the sale or lease of a
392 hospital may ~~shall~~ not be construed as:

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

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

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

399 (20) ~~(7)~~ The lessee of a hospital, under this section or any
400 special act of the Legislature, operating under a lease may
401 ~~shall~~ not be construed to be "acting on behalf of" the lessor as
402 that term is used in statute, unless the lease document
403 expressly provides to the contrary.

404 (21) ~~(8)~~ (a) If, whenever the sale of a public hospital by a
405 public agency to a private ~~corporation or other private~~ entity
406 pursuant to this section or pursuant to a special act of the
407 Legislature reflects that:

408 1. The private ~~corporation or other private~~ entity
409 purchaser acquires 100 percent ownership in the hospital
410 enterprise;

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

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

418 4. The private ~~corporation or other private~~ entity
419 purchaser receives no funding from the public agency seller



408312

420 other than by contract for services rendered to patients for
421 whom the public agency seller has the responsibility to pay for
422 hospital or medical care;

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

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

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

430
431 such a sale shall be considered a complete sale of the public
432 agency's interest in the hospital or health care system.

433 (b) A complete sale of a hospital or health care system as
434 described in this subsection may ~~shall~~ not be construed as:

435 1. A transfer of a governmental function from the county,
436 district, or municipality to the private ~~corporation or other~~
437 ~~private~~ entity purchaser;

438 2. Constituting a financial interest of the public agency
439 in the private ~~corporation or other private~~ entity purchaser;

440 3. Making the private ~~corporation or other private~~ entity
441 purchaser an "agency" as that term is used in statutes;

442 4. Making the private ~~corporation or other private~~ entity
443 purchaser an integral part of the public agency's decisionmaking
444 process; or

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

448 (22) If the governing board elects to sell or lease the



408312

449 physical property of a county, district, or municipal hospital
450 or health care system and such property generated less than 20
451 percent of the hospital's net revenue within the hospital's or
452 health care system's most recent fiscal year, the sale or lease
453 of such property is exempt from the requirements under
454 subsections (6)-(17). However, the governing board shall
455 publicly advertise the meeting at which the proposed sale or
456 lease of such property will be considered by the governing board
457 of the hospital in accordance with s. 286.0105 or publicly
458 advertise the offer to accept proposals in accordance with s.
459 255.0525 and receive proposals from all qualified purchasers and
460 lessees. The sale or lease of the property must be for fair
461 market value or, if a lease is for less than fair market value,
462 the lease must be in the best interest of the affected
463 community.

464 (23) A county, district, or municipal hospital or health
465 care system that is under lease as of the effective date of this
466 act is not subject to subsections (5)-(17) as long as that lease
467 remains in effect in accordance with the terms of the lease or
468 such lease is modified, extended, or renewed. However, such
469 hospital or health care system becomes subject to the provisions
470 of this act upon:

471 (a) Termination of the lease, unless the lease termination
472 is the direct result of a new lease involving a partnership,
473 transaction, or contract in which both the existing lessor and
474 lessee agree to the new lease between the lessor and another
475 mutually agreed upon entity;

476 (b) Notification provided to the lessee of a planned
477 termination of the lease in accordance with the lease terms,



408312

478 unless the notification of lease termination is the direct
479 result of a new lease involving a partnership, transaction, or
480 contract in which both the existing lessor and lessee agree to
481 the new lease between the lessor and another mutually agreed
482 upon entity;

483 (c) Notification to the lessee that upon termination of the
484 lease the lessor plans to seek potential new lessees or buyers;
485 or

486 (d) Notification to the lessee that the lessor plans to
487 resume operation of the hospital or health care system at the
488 termination of the lease.

489
490 Any such hospital or health care system may not thereafter be
491 sold, leased to another lessee, or operated by the owner without
492 first complying with this section.

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

501 (25) Notwithstanding subsection (24), a county, district,
502 or municipal hospital or health care system that has issued a
503 request for proposals for the sale or lease of a hospital or
504 health care system on or before February 1, 2012, in order to
505 receive proposals from not-for-profit or for-profit qualified
506 purchasers or lessees, is not subject to subsections (5)-(17)



408312

507 unless such request for proposals does not directly result in a
508 sale or lease of the hospital or health care system to a
509 qualified purchaser or lessee on or before December 31, 2012.

510 Section 2. Section 155.401, Florida Statutes, is created to
511 read:

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

522 Section 3. To the extent that any general or special law is
523 inconsistent with or otherwise in conflict with this act, such
524 conflicting provisions are specifically superseded by this act.
525 A special tax district, public hospital, or municipal hospital
526 is not exempt from this act.

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

529 395.002 Definitions.—As used in this chapter:

530 (1) "Accrediting organizations" means national
531 accreditation organizations that are approved by the Centers for
532 Medicare and Medicaid Services and whose standards incorporate
533 comparable licensure regulations required by the state ~~the Joint~~
534 ~~Commission on Accreditation of Healthcare Organizations, the~~
535 ~~American Osteopathic Association, the Commission on~~



408312

536 ~~Accreditation of Rehabilitation Facilities, and the~~
537 ~~Accreditation Association for Ambulatory Health Care, Inc.~~

538 Section 5. For the purpose of incorporating the amendment
539 made by this act to section 395.002, Florida Statutes, in a
540 reference thereto, paragraph (c) of subsection (2) of section
541 395.003, Florida Statutes, is reenacted to read:

542 395.003 Licensure; denial, suspension, and revocation.—

543 (2)

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

549 Section 6. Section 395.3036, Florida Statutes, is amended
550 to read:

551 395.3036 Confidentiality of records and meetings of
552 entities ~~corporations~~ that lease public hospitals or other
553 public health care facilities.—The records of a private entity
554 ~~corporation~~ that leases a public hospital or other public health
555 care facility are confidential and exempt from ~~the provisions of~~
556 s. 119.07(1) and s. 24(a), Art. I of the State Constitution, and
557 the meetings of the governing board of a private entity
558 ~~corporation~~ are exempt from s. 286.011 and s. 24(b), Art. I of
559 the State Constitution if when the public lessor complies with
560 the public finance accountability provisions of s. 155.40(18)
561 ~~155.40(5)~~ with respect to the transfer of any public funds to
562 the private lessee and if when the private lessee meets at least
563 three of the five following criteria:

564 (1) The public lessor that owns the public hospital or



408312

565 other public health care facility was not the incorporator or
566 initial member of the private entity ~~corporation~~ that leases the
567 public hospital or other health care facility.

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

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

575 (4) The lease agreement does not expressly require the
576 lessee to comply with ~~the requirements of~~ ss. 119.07(1) and
577 286.011.

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

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

583
584 ===== T I T L E A M E N D M E N T =====

585 And the title is amended as follows:

586 Delete everything before the enacting clause
587 and insert:

588 A bill to be entitled
589 An act relating to the sale or lease of a county,
590 district, or municipal hospital; amending s. 155.40,
591 F.S.; defining terms; requiring that the governing
592 board of a county, district, or municipal hospital
593 evaluate the possible benefits to an affected



408312

594 community from the sale or lease of the hospital
595 facility to a not-for-profit or for-profit entity
596 within a specified time period; specifying the actions
597 the board must take in evaluating whether to sell or
598 lease the public hospital; requiring the board to
599 determine whether qualified purchasers or lessees
600 exist; specifying the factors that must be considered
601 by the governing board before accepting a proposal to
602 sell or lease the hospital; requiring the board to
603 state in writing detailed findings related to its
604 decision to accept or reject the proposal; requiring
605 the governing board to make public the required
606 findings and documents and to publish a notice of the
607 proposed transaction in one or more newspapers of
608 general circulation in the county in which the
609 majority of the physical assets of the hospital are
610 located; allowing persons to submit written comments
611 regarding the proposed transaction; providing that the
612 sale or lease is subject to the approval of the
613 Secretary of Health Care Administration; requiring the
614 governing board to file a petition with the Secretary
615 of Health Care Administration seeking approval of the
616 proposed transaction within a specified time period;
617 requiring the Secretary of Health Care Administration
618 or his or her designee to issue a final order
619 approving or denying the proposed transaction;
620 specifying the criteria upon which the Secretary of
621 Health Care Administration must base his or her
622 decision; authorizing an interested party to appeal



408312

623 the decision of the Secretary of Health Care
624 Administration; requiring that all costs be paid by
625 the governing board unless an interested party
626 contests the action, in which case the court may
627 assign costs equitably to the parties; providing for
628 the distribution of proceeds from the transaction;
629 exempting the sale or lease of specified physical
630 property of a county, district, or municipal hospital
631 from processes required for the approval of a sale or
632 lease of county, district, or municipal hospital
633 property; providing an exemption from complying with
634 the requirements of the act under certain
635 circumstances; exempting application of the act to
636 hospitals or health care systems for which a letter of
637 intent to sell or lease is executed before a specified
638 date; exempting application of the act to a county,
639 district, or municipal hospital or health care system
640 that has issued a request for proposals for the sale
641 or lease of a hospital or health care system on or
642 before a specified date; providing an exception;
643 creating s. 155.401, F.S.; providing that the purposes
644 for which a special taxing district may appropriate
645 funds from the sale or lease of a hospital or health
646 care system include the promotion and support of
647 economic growth in the district and county in which
648 the taxing district is located and the furthering of
649 the purposes of the taxing district; providing that
650 any general or special law that is inconsistent with
651 or otherwise in conflict with the act is specifically



408312

652 superseded by the act; amending s. 395.002, F.S.;

653 revising the definition of the term "accrediting

654 organizations"; reenacting s. 395.003(2)(c), F.S.,

655 relating to licensure and regulation of hospitals, to

656 incorporate the amendment made to s. 395.002, F.S., in

657 a reference thereto; amending s. 395.3036, F.S.;

658 conforming cross-references; providing an effective

659 date.