

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

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1 Committee/Subcommittee hearing bill: State Affairs Committee  
 2 Representative Tuck offered the following:

**Amendment**

Remove lines 48-317 and insert:

3  
 4  
 5  
 6 subsection (6) of this section. In evaluating the benefits of  
 7 leasing the district assets, the board must find that the lease  
 8 is in the best interests of the public of the district and must  
 9 state the basis of that finding. To make that determination, the  
 10 board shall:

11 (a) Contract with an independent entity or entities that  
 12 have at least 5 years of experience conducting comparable  
 13 evaluations of hospital organizations similar in size and  
 14 function to the hospital to conduct an evaluation of the  
 15 benefits of leasing the district assets according to applicable  
 16 industry practices. A study completed less than 2 years prior to

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17 the public notice in paragraph (b) of this subsection that meets  
18 all other requirements may be used for the purposes of this  
19 evaluation. The evaluation must also include the estimated fair  
20 market value, as defined in section 155.40, Florida Statutes, of  
21 the district assets and a statement signed by the chief  
22 executive officer or designee of the independent entity or  
23 entities conducting the evaluation that, based on his or her  
24 reasonable knowledge and belief, the content and conclusions of  
25 the evaluation are true and correct.

26 (b) Publish notice of and conduct a public meeting in  
27 accordance with section 189.015(1), Florida Statutes, to provide  
28 the public of the district with the opportunity to publicly  
29 testify regarding the lease or management agreement. The public  
30 notice must contain notice of where the public can find all  
31 documents related to the potential lease of the hospital.

32 (2) The board must publish the evaluation, all documents  
33 considered by the board on the hospital district website, and a  
34 statement signed by the chair of the board that, based on his or  
35 her reasonable knowledge and belief, the content of the  
36 evaluation is true and correct.

37 (3) If, upon completion of the evaluation of the benefits  
38 of a lease, the board elects to consider a lease or management  
39 agreement of the hospital in its entirety to a third party, the  
40 board must first determine whether there are any qualified

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41 lessees. In the process of evaluating any qualified lessee, the  
42 board shall:

43 (a) Publicly advertise the meeting at which the proposed  
44 lease will be considered by the board in accordance with section  
45 286.0105, Florida Statutes; or

46 (b) Publicly advertise the offer to accept proposals in  
47 accordance with section 255.0525, Florida Statutes, and receive  
48 proposals from all qualified lessees.

49 (4) The members of the board must disclose all conflicts  
50 of interest as required by section 112.313, Florida Statutes,  
51 including, but not limited to, whether the lease or management  
52 agreement will result in a special private gain or loss to any  
53 member of the board. Conflicts of interest, if any, with respect  
54 to experts retained by the board shall also be disclosed.

55 (5) The evaluation, agreements, disclosures, and any other  
56 supporting documents related to the lease or management  
57 agreement of the hospital must be published on the hospital  
58 district website for 30 calendar days before the board may vote  
59 on the proposed agreement identified in subsection (6) of this  
60 section to lease the hospital to a not-for-profit or for-profit  
61 entity. The hospital district website must include a means by  
62 which a person may submit written comments about the proposed  
63 transaction to the board.

64 (6) The board must determine, by a majority vote, whether  
65 the interests of the public of the district are best served by

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66 leasing to a not-for-profit or for-profit entity. The board must  
67 make a determination to accept a proposal for lease after  
68 consideration of all proposals received and negotiations with a  
69 qualified lessee or management entity. The board's determination  
70 must include, in writing, detailed findings of all reasons for  
71 accepting the proposal. If the accepted bid is less than the  
72 fair market value under subsection (1), the board shall provide  
73 a detailed explanation of how the best interests of the public  
74 of the district are served by the acceptance of less than the  
75 fair market value for the lease of the hospital. The board's  
76 findings must include the findings of all information and  
77 documents relevant to the board's determination, including, but  
78 not limited to:

79 (a) The names and addresses of all parties to the  
80 transaction.

81 (b) The location of the hospital and all related  
82 facilities.

83 (c) A description of the terms of all proposed agreements.

84 (d) A copy of the lease or management agreement and any  
85 related agreements.

86 (e)1. The estimated total value associated with the  
87 proposed agreement,

88 2. The estimated Fair market value under subsection (1),  
89 and

90 3. The proposed lease price.

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91 (f) The evaluation as required in subsection (1) of this  
92 section and any other valuation prepared at the request of the  
93 board, lessee, or managing entity of the hospital.

94 (g) Copies of all other proposals and bids that the board  
95 may have received or considered in compliance with subsection  
96 (3) of this section.

97 (7) In a public meeting noticed as required pursuant to  
98 subsection (1) of this section, the board may approve, by a  
99 majority vote, of the lease of the hospital to an entity subject  
100 to the terms of a negotiated agreement. The agreement made  
101 pursuant hereto shall:

102 (a) Require that the articles of incorporation of the for-  
103 profit or not-for-profit corporation be subject to the approval  
104 of the board;

105 (b) Require that any not-for-profit corporation is  
106 qualified under s. 501(c)(3) of the United States Internal  
107 Revenue Code;

108 (c) Provide for the orderly transition of the operation  
109 and management of the facilities, including, but not limited to,  
110 a change of ownership as described in section 408.807, Florida  
111 Statutes, if applicable; and

112 (d) Provide that the leasing or managing entity has made  
113 an enforceable commitment that programs and services and quality  
114 health care will continue to be provided to the public of the

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115 district, particularly to the indigent, the uninsured, and the  
116 underinsured.

117 (8) Any interested party as defined in section 155.40(4),  
118 Florida Statutes, has the right to seek judicial review of the  
119 decision by the board relating to the lease of the hospital in  
120 the circuit court where the hospital is located. Judicial review  
121 is limited solely to consideration of whether the procedures  
122 contained within this section have been followed by the board.

123 (9) If an interested party contests the action by the  
124 board, the court will assign costs equitably to the parties.

125 (10) Leases or management agreements not subject to  
126 subsections (5)-(9) of this section are limited to:

127 (a) A lease entered into prior to the effective date of  
128 this act that is modified, extended, or renewed.

129 (b) A lease or management agreement for a term no greater  
130 than 10 years that is entered into so the board may undergo the  
131 process as outlined in subsections (5)-(9) of this section.

132 **Section 37.** (1) The Board of Commissioners of the  
133 Highlands County Hospital District may elect, by a majority vote  
134 of the members present and voting, to commence an evaluation of  
135 the benefits to the public of the district, as described in  
136 Section 1, of selling the entirety of the assets of the  
137 Highlands County Hospital District to a not-for-profit or for-  
138 profit entity to continue to provide health care services to the  
139 community if the board executes an agreement that meets the

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140 requirements of subsection (7) of this section. In evaluating  
141 the benefits of the sale, the board must find that the sale is  
142 in the best interest of the public of the district and must  
143 state the basis of that finding. To make that determination, the  
144 board shall contract with an independent entity or entities that  
145 have at least 5 years of experience conducting comparable  
146 evaluations of hospital organizations similar in size and  
147 function to the hospital to conduct an evaluation of the  
148 benefits of selling the district assets according to applicable  
149 industry practices. A study completed less than 2 years prior to  
150 the public notice under paragraph (c) of this subsection that  
151 meets all other requirements may be used for the purposes of  
152 this evaluation. The evaluation must be based on the most  
153 currently available financial data and include, but is not  
154 limited to, each of the following:

155 (a) An objective operating comparison of the hospital to  
156 other similarly situated hospitals, both not-for-profit and for-  
157 profit, which have a similar service mix in order to determine  
158 where there is a difference in the cost of operation using,  
159 including, but not limited to, publicly available data provided  
160 by the Agency for Health Care Administration, data provided by  
161 the current operator of the hospital as requested by the board,  
162 and the quality metrics identified by the Centers for Medicare  
163 and Medicaid Services Core Measures.

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164 (b) An assessment of whether there is a net benefit to the  
165 community to operate the hospital as a not-for-profit or for-  
166 profit entity and use the proceeds of the sale for the purposes  
167 described in section 36.

168 (c) An assessment of the fair market value, as defined in  
169 section 155.40, Florida Statutes, of the district assets.

170 (d) A statement signed by the chief executive officer or  
171 designee of the independent entity or entities conducting the  
172 evaluation that, based on his or her reasonable knowledge and  
173 belief, the content and conclusions of the evaluation are true  
174 and correct.

175 (2) The board must publish notice of and conduct a public  
176 meeting in accordance with section 189.015(1), Florida Statutes,  
177 to provide the public of the district with the opportunity to  
178 publicly testify regarding the sale. The public notice must  
179 contain notice of where the public can find all documents  
180 related to the potential sale of the hospital.

181 (3) The board must publish the evaluation, all documents  
182 considered by the board on the hospital district website, and a  
183 statement signed by the chair of the board that, based on his or  
184 her reasonable knowledge and belief, the content of the  
185 evaluation is true and correct.

186 (4) If, upon completion of the evaluation of the benefits  
187 of a sale, the board elects to consider a sale of the hospital  
188 in its entirety to a third party, the board must first determine

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189 whether there are any qualified purchasers. In the process of  
190 evaluating any qualified purchaser, the board shall:

191 (a) Publicly advertise the meeting at which the proposed  
192 sale will be considered by the board in accordance with section  
193 286.0105, Florida Statutes; or

194 (b) Publicly advertise the offer to accept proposals in  
195 accordance with section 255.0525, Florida Statutes, and receive  
196 proposals from all qualified purchasers.

197 (5) The members of the board must disclose all conflicts  
198 of interest as required by section 112.313, Florida Statutes,  
199 including, but not limited to, whether the sale will result in a  
200 special private gain or loss to any member of the board.

201 Conflicts of interest, if any, with respect to experts retained  
202 by the board shall also be disclosed.

203 (6) The evaluation, agreements, disclosures, and any other  
204 supporting documents related to the sale of the hospital must be  
205 published on the hospital district website for 30 calendar days  
206 before the board may vote on the proposed agreement identified  
207 in subsection (6) of this section to sell the hospital to a not-  
208 for-profit or for-profit entity. The hospital district website  
209 must include a means by which a person may submit written  
210 comments about the proposed transaction to the board and obtain  
211 copies of the findings and documents required under subsections  
212 (1) and (7) of this section.

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213 (7) The board must determine, by a majority vote, whether  
214 the interests of the public of the district are best served by  
215 selling to a not-for-profit or for-profit entity. The board must  
216 make a determination to accept a proposal for sale after  
217 consideration of all proposals received and negotiations with a  
218 qualified purchaser. The board's determination must include, in  
219 writing, detailed findings of all reasons for accepting the  
220 proposal. If the accepted bid is less than the fair market value  
221 under subsection (1), the board shall provide a detailed  
222 explanation of how the best interests of the public of the  
223 district are served by the acceptance of less than the fair  
224 market value for the purchase of the hospital. The board's  
225 findings must include the findings of all information and  
226 documents relevant to the board's determination, including, but  
227 not limited to:

228 (a) The names and addresses of all parties to the  
229 transaction.

230 (b) The location of the hospital and all related  
231 facilities.

232 (c) A description of the terms of all proposed agreements.

233 (d) A copy of the proposed sale and any related  
234 agreements.

235 (e)1. The estimated total value associated with the  
236 proposed agreement,

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237 2. The estimated fair market value, as defined in section  
238 155.40, Florida Statutes, associated with the proposed  
239 agreement, and

240 3. The proposed acquisition price.

241 (f) The evaluation as required in subsection (1) of this  
242 section and any other valuation prepared at the request of the  
243 board, lessee, or managing entity of the hospital.

244 (g) Copies of all other proposals and bids that the board  
245 may have received or considered in compliance with subsection  
246 (3) of this section.

247 (8) In a public meeting noticed as required pursuant to  
248 subsection (1) of this section, the board may approve, by a  
249 majority vote, of the sale of the hospital to an entity subject  
250 to the terms of a negotiated agreement. The agreement made  
251 pursuant hereto shall:

252 (a) Require that the articles of incorporation of the for-  
253 profit or not-for-profit corporation be subject to the approval  
254 of the board;

255 (b) Require that any not-for-profit corporation is  
256 qualified under s. 501(c) (3) of the United States Internal  
257 Revenue Code;

258 (c) Provide for the orderly transition of the operation  
259 and management of the facilities, including, but not limited to,  
260 a change of ownership as described in section 408.807, Florida  
261 Statutes, if applicable; and

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262 (d) Provide that the acquiring entity has made an  
263 enforceable commitment that programs and services and quality  
264 health care will continue to be provided to all residents of the  
265 district, particularly to the indigent, the uninsured, and the  
266 underinsured in perpetuity so long as the succeeding entity is  
267 in operation or, if otherwise agreed to, until the succeeding  
268 entity has otherwise met all obligations set forth in the  
269 agreement.

270 (9) If the board approves the sale, the hospital district  
271 shall file a copy of the agreement with the Department of  
272 Commerce no later than 10 calendar days after the later of:

273 (a) Approval of the change of ownership pursuant to section  
274 408.807, Florida Statutes, if applicable; or

275 (b) The date of closing, if no change of license ownership  
276 is required.

277 (10) The residual proceeds of the sale are surplus funds  
278 and must be used in the same manner as described in section 36  
279 of this act.

280 (11) No later than 30 calendar days after the complete  
281 sale of the district's assets and liabilities, as described in  
282 section 155.40(21), Florida Statutes, the board shall notify the  
283 Department of Commerce of the sale. The Highlands County  
284 Hospital District shall be dissolved 30 calendar days following  
285 the receipt of the notice by the department.

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286       (12) If the board fails to approve for any reason an  
287 agreement that would result in the sale of the hospital to a  
288 not-for-profit or for-profit entity that will continue to  
289 provide health care services for the county, the board shall  
290 continue to exist as the Highlands County Hospital District.

291       (13) Any interested party as defined in section 155.40(4),  
292 Florida Statutes, has the right to seek judicial review of the  
293 decision by the board to sell the district assets, including,  
294 but not limited to, the hospital, in the circuit court where the  
295 hospital is located. Judicial review is limited solely to  
296 consideration of whether the procedures contained within this  
297 section have been followed by the board.

298       (14) If an interested party contests the action by the  
299 board, the court will assign costs equitably to the parties.  
300