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Proposed Committee Substitute by the Committee on Health Regulation

1 A bill to be entitled

2 An act relating to the Florida Health

3 Information Network; creating s. 408.064, F.S.;

4 providing a short title; providing legislative

5 intent; creating the Florida Health Information

6 Network Advisory Council within the Executive

7 Office of the Governor; specifying membership

8 and terms of office; providing duties and staff

9 support for the advisory council; establishing

10 duties of the Agency for Health Care

11 Administration regarding development of an

12 electronic health information network; creating

13 a direct-support organization to assist the

14 agency; providing for the appointment of a

15 board of directors for the direct-support

16 organization; providing for applicability of

17 public-records and public-meetings requirements

18 to the direct-support organization; providing

19 for audits; requiring a contract between the

20 agency and the direct-support organization

21 which includes certain requirements; requiring

22 the Agency for Health Care Administration to

23 prepare and submit to the Council on Efficient

24 Government a business case analysis for the

25 implementation of a statewide health

26 information network; specifying the elements of

27 the business case analysis; requiring the

28 Council on Efficient Government to submit its

29 evaluation of the business case analysis to the

30 Governor, the Florida Health Information

31 Network Advisory Council, the Agency for Health

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1 Care Administration, and the Legislature;
 2 requiring competitive procurement; prohibiting
 3 a contract to implement a statewide health
 4 information network unless funds are
 5 appropriated; authorizing the Agency for Health
 6 Care Administration to adopt rules; providing
 7 an appropriation; providing an effective date.

8
9 Be It Enacted by the Legislature of the State of Florida:

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11 Section 1. Section 408.064, Florida Statutes, is
12 created to read:

13 408.064 Florida Health Information Network Act;
 14 intent; advisory council; duties of the agency; direct-support
 15 organization; business case analysis.--

16 (1) SHORT TITLE.--This section may be cited as the
 17 "Florida Health Information Network Act."

18 (2) LEGISLATIVE INTENT.--It is the intent of the
 19 Legislature to promote the establishment of a
 20 privacy-protected, secure, and integrated statewide network
 21 for the electronic communication of health information among
 22 authorized parties. It is further the intent of the
 23 Legislature to foster a coordinated initiative between the
 24 public and private sectors for the development and operation
 25 of Florida's electronic health information infrastructure.

26 (3) ADVISORY COUNCIL.--There is created in the
 27 Executive Office of the Governor the Florida Health
 28 Information Network Advisory Council to advise state agencies
 29 on the development of Florida's electronic health information
 30 infrastructure.

31 (a) The advisory council shall consist of:

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1 1. The Secretary of Health Care Administration or the
2 secretary's designee;

3 2. The Secretary of Health or the secretary's
4 designee;

5 3. The Secretary of Management Services or the
6 secretary's designee;

7 4. One member representing health insurers appointed
8 by the Chief Financial Officer;

9 5. Three members appointed by the Governor, one
10 representing hospitals, one representing allopathic
11 physicians, and one representing a health care information
12 technology business in the state;

13 6. Three members appointed by the President of the
14 Senate, one representing a regional health information
15 organization, one representing a college of medicine in the
16 state, and one representing pharmacies in the state; and

17 7. Three members appointed by the Speaker of the House
18 of Representatives, one representing a regional health
19 information organization, one representing osteopathic
20 physicians, and one representing a health care information
21 technology business in the state.

22 (b) Members shall be appointed to terms of 4 years,
23 except that of the members initially appointed, the Governor,
24 the President of the Senate, and the Speaker of the House of
25 Representatives shall each appoint one member to a 2-year term
26 and one member to a 3-year term. A vacancy on the advisory
27 council shall be filled for the remainder of the unexpired
28 term in the same manner as the original appointment. Any
29 member is eligible for reappointment.

30 (c) The chair of the advisory council shall be
31 selected by a majority vote of the members, a quorum being

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1 present.

2 (d) The advisory council shall advise the Governor and
3 the Agency for Health Care Administration on the development
4 of a statewide electronic health information network.

5 (e) The members of the advisory council shall receive
6 no compensation, but are entitled to reimbursement for per
7 diem and travel expenses incurred while attending meetings of
8 the advisory council and otherwise on official business of the
9 advisory council as provided in s. 112.061.

10 (f) The Agency for Health Care Administration shall
11 provide staff support to the advisory council.

12 (4) DUTIES OF THE AGENCY FOR HEALTH CARE
13 ADMINISTRATION.--The agency shall promote the development of
14 an electronic health information network as a public-private
15 partnership among health care providers, payors, consumers,
16 employers, public health officials, medical researchers, and
17 other health care stakeholders in the state. The agency shall:

18 (a) Promote an integrated approach to creating a
19 secure network for electronic communication of health
20 information in the state;

21 (b) Develop and implement specific programs or
22 strategies to create, develop, and expand regional or local
23 health information networks and recruit participants in the
24 networks;

25 (c) Establish standards for statewide and interstate
26 interoperability among national, regional, and local health
27 information networks and other participants in the Florida
28 health information network;

29 (d) Regularly assess the adoption of electronic health
30 records systems and the use of the Florida health information
31 network by health care providers, consumers, public health

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1 officials, and other health care stakeholders in order to
2 identify and reevaluate the state's health information
3 infrastructure strengths and weaknesses, assess opportunities
4 to increase consumer access to the consumer's health records,
5 and incorporate such information into its strategic planning
6 process;

7 (e) Establish privacy, security, operational, and
8 technical standards, based on widely adopted standards or
9 standards accepted by recognized national standard-setting
10 organizations, for the statewide, regional, and local health
11 information networks in order to ensure effective statewide
12 privacy, data security, and efficiency;

13 (f) Develop annual budgets that include funding from
14 public and private entities, including user fees; and

15 (g) Take commercially reasonable measures to protect
16 the agency's intellectual property, including obtaining
17 patents, trademarks, and copyrights where appropriate.

18 (5) DIRECT-SUPPORT ORGANIZATION.--The Florida Health
19 Information Network, Inc., is created as a direct-support
20 organization whose sole purpose is to assist the Agency for
21 Health Care Administration in developing a statewide
22 electronic health information network.

23 (a) The Florida Health Information Network, Inc., must
24 be:

25 1. Incorporated under chapter 617 and approved by the
26 Department of State as a Florida corporation not for profit;

27 2. Organized and operated to raise funds; to request
28 and receive grants, gifts, and bequests of money; and to
29 receive, hold, invest, and administer property; and

30 3. Determined by the agency to be consistent with the
31 goal of developing a state electronic health information

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1 network in the best interests of the state and in accordance
2 with the adopted goals and mission of the agency.

3 (b) The affairs of the direct-support organization
4 shall be managed by a 12-member board of directors who shall
5 serve without compensation. The board of directors shall be
6 appointed by the Secretary of Health Care Administration.
7 Members shall be appointed for terms of 4 years except that,
8 of the members initially appointed, four members shall be
9 appointed to 2-year terms and four members shall be appointed
10 to 3-year terms.

11 (c) The direct-support organization is subject to the
12 open-records and open-meetings requirements of s. 24, Art. I
13 of the State Constitution, chapter 119, and s. 286.011.

14 (d) The direct-support organization shall provide for
15 an annual financial audit of its accounts and records which
16 shall be conducted by an independent certified public
17 accountant in accordance with rules adopted by the Auditor
18 General pursuant to s. 11.45(8) and by the agency. The annual
19 audit report shall be submitted, within 9 months after the end
20 of the fiscal year, to the Auditor General and the agency for
21 review. The Auditor General and the Office of Program Policy
22 Analysis and Government Accountability may require and receive
23 from the organization or from its independent auditor any
24 records relative to the operation of the organization.

25 (e) The direct-support organization shall operate
26 under a written contract with the agency. The written contract
27 must provide for:

28 1. Approval of the articles of incorporation and
29 bylaws of the direct-support organization by the agency;

30 2. Submission of an annual budget for the approval of
31 the agency;

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1 3. Certification by the agency that the direct-support
 2 organization is complying with the terms of the contract and
 3 is doing so consistent with the goals and purposes of the
 4 agency and in the best interests of the state. This
 5 certification must be made annually and reported in the
 6 official minutes of a meeting of the direct-support
 7 organization;

8 4. The reversion of moneys and property, including
 9 intellectual property, held in trust by the direct-support
 10 organization to the agency if the direct-support organization
 11 is no longer approved to operate for the agency, to the agency
 12 if the direct-support organization ceases to exist, or to the
 13 state if the agency ceases to exist;

14 5. The fiscal year of the direct-support organization,
 15 which must begin July 1 of each year and end June 30 of the
 16 following year; and

17 6. The disclosure of material provisions of the
 18 contract, and the distinction between the agency and the
 19 direct-support organization, to donors of gifts,
 20 contributions, or bequests, including such disclosure on all
 21 promotional and fundraising publications.

22 (f) Expenditures of the direct-support organization
 23 may not be used for the purpose of lobbying as defined in s.
 24 11.045.

25 (6) BUSINESS CASE ANALYSIS.--

26 (a) The Agency for Health Care Administration shall
 27 prepare a business case analysis for the implementation of a
 28 statewide health information network for sharing electronic
 29 health records and submit the business case analysis to the
 30 Council on Efficient Government for its review and evaluation
 31 by October 1, 2007. The business case analysis must meet the

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1 requirements of s. 287.0574(4) and must include the analysis
2 and costing of three specific organizational delivery models:

3 1. A state agency model in which all resource
4 requirements are delivered by entities and personnel in the
5 public sector;

6 2. A hybrid model in which a state agency procures
7 specific subcomponents and acts as a master integrator; and

8 3. A sourced model in which a private entity is
9 contracted for the performance of all tasks and deliverables
10 and the state agency acts as contract manager.

11
12 The Council on Efficient Government must provide its
13 evaluation of the business case analysis to the Governor, the
14 Florida Health Information Network Advisory Council, the
15 Agency for Health Care Administration, and the Legislature by
16 December 1, 2007.

17 (b) Notwithstanding the provisions of s. 287.057, any
18 procurement issued by a state agency, other than for
19 implementation by the state agency itself, subsequent to the
20 delivery of the business case analysis must be competitively
21 procured using an invitation to negotiate, a request for
22 proposals, or an invitation to bid.

23 (c) A contract to implement a statewide health
24 information network may not be executed unless all funds are
25 specifically appropriated by law.

26 (7) RULES.--The Agency for Health Care Administration
27 may adopt rules necessary to administer this section.

28 Section 2. The sum of \$ _____ in nonrecurring general
29 revenue funds is appropriated to the Agency for Health Care
30 Administration for the 2007-2008 fiscal year for the purpose
31 of paying the expenses of the Florida Health Information

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1 Network Advisory Council, establishing the Florida Health
2 Information Network, Inc., as a direct-support organization,
3 and conducting the business case analysis required under s.
4 408.064, Florida Statutes.

5 Section 3. This act shall take effect upon becoming a
6 law.

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