Transfer of Assets to Governmental Entity

Number: AGO 2026-04

Mr. Peter Collins, Chair
Florida State University Board of Trustees
222 South Copeland Street, Suite 216 Westcott
Tallahassee, Florida 32306-1350

Dear Mr. Collins:

I received your letter, dated February 4, 2026, requesting a legal opinion on a question of Florida law.[1] You ask whether section 155.40, Florida Statutes, applies to the potential transfer to Florida State University ("FSU") of the assets owned by the City of Tallahassee (the "City") and currently leased to Tallahassee Memorial HealthCare, Inc. ("TMH Inc.").

In short, my answer to your question is no. Section 155.40 does not apply to the transfer of the assets leased to TMH Inc. from the City to FSU because FSU is a governmental entity, and section 155.40 does not apply to the transfer of assets to a governmental entity.

Background[2]

The City constructed the hospital buildings, which later became operated by TMH Inc., in the 1940s. The City operated the hospital with its own employees. In 1979, the Legislature authorized the City to lease the land and the physical assets of what was then called Tallahassee Memorial Regional Medical Center, Inc. ("TMRMC Inc.") to a non-profit corporation.[3] The City appointed the first board of directors of TMRMC Inc., but since then, TMRMC Inc. has selected its own board of directors and operated the hospital with its own employees. In 1998, TMRMC Inc. changed its name to TMH Inc.

In the original lease, TMRMC Inc. agreed that any improvements it made to the hospital would become the property of the City. The parties have amended the lease several times since 1979 to extend the time of the original lease and provide for confirmation by the City of the TMH Inc. board members. TMH Inc. currently runs the hospital using its own employees. TMH Inc. is registered as a Florida not-for-profit corporation with the Florida Department of State. The City now seeks to transfer the land and buildings to FSU, but TMH Inc. will continue to run the hospital with its own employees.

Analysis

Section 155.40 governs the sale or lease of any county, district, or municipal hospital. Under section 155.40(1), "a county, district, or municipal hospital organized and existing under the laws of this state, acting by and through its governing board, ***may sell*** or lease the hospital ***to a for-profit or not-for-profit Florida entity***." Before selling or leasing a municipal hospital, the governing board of the hospital must "find that the sale, lease, or contract is in the best interests of the affected community and must state the basis of that finding."[4] While section 155.40 does not define the term "not-for-profit entity," a similar term "corporation not-for-profit" is defined elsewhere in the Florida Statutes.[5] The term "corporation not-for-profit" is defined as "a corporation no part of the income or profit of which is distributable to its members, directors, or officers, except as otherwise provided under this chapter."[6]

Here, section 155.40 does not apply to the potential sale of the assets by the City to FSU because FSU is a governmental entity—not a for-profit or not-for-profit Florida entity. As explained above, section 155.40 applies

only to the sale or lease of a "municipal hospital ***to a for-profit or not-for-profit Florida entity***."[7] FSU is a state university and is therefore an "agenc[y] of the state which belong[s] to and [is] part of the executive branch of state government."[8] A state agency is not the same as a not-for-profit entity.[9] Consequently, the City's potential transfer of assets to FSU is not subject to the requirements of section 155.40.

Conclusion

Accordingly, section 155.40 is not applicable to the proposed transfer of assets from the City of Tallahassee to FSU, and compliance with section 155.40 is not required. FSU is a state university and therefore a state agency rather than a not-for-profit entity.[10]

Sincerely,

James Uthmeier

Attorney General

[1] *See* Letter from Peter Collins, Chair of the Fla. State Univ. Bd. of Trs., to James Uthmeier, Att'y Gen. of Fla., (Feb. 4, 2026) (on file with the Office of the Florida Attorney General).

[2] As provided in the Chair's Memorandum of Law.

[3] Ch. 79-569, Laws of Florida (1979).

[4] *See* § 155.40(1), Fla. Stat.

[5] *See* § 155.40, Fla. Stat.

[6] § 617.01401(5), Fla. Stat.

[7] § 155.40(1), Fla. Stat. (emphasis added); *see also Citrus Cnty. Hosp. Bd. v. Citrus Mem'l Health Found., Inc.*, 150 So. 3d 1102, 1104 (Fla. 2014) (explaining that section 155.40 was enacted to authorize the lease of hospitals to "Florida business entities"); *Indian River Cnty. Hosp. Dist. v. Indian River Mem'l Hosp. Inc.*, 766 So. 2d 233, 235 (Fla. 4th DCA 2000) (explaining that "the Florida Legislature enacted section 155.40, which authorized the leasing of public hospitals to nonprofit entities").

[8] § 1001.705(1)(d), Fla. Stat.; *see also Paylan v. Teitelbaum*, 2017 WL 2294084, at *2 (N.D. Fla. May 23, 2017) (holding that the University of Florida is a state agency)

[9] Further, in section 155.40(2)(b), an agreement for the sale of a municipal hospital "[r]equire[s] that any not-for-profit corporation become qualified under 501(c)(3) of the United States Internal Revenue Code," further demonstrating that this section does not apply to a sale to a governmental entity.

[10] While not the basis of this opinion, I find it unlikely that TMH, Inc. is a “municipal hospital” under section 155.40.