

House Bill 967

By: Representatives Martin of the 47th and Barnard of the 166th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 31-6-47 of the Official Code of Georgia Annotated, relating to
2 exemptions from the certificate of need program, so as to exempt prisons and other secure
3 correctional institutions of the Department of Corrections and the Department of Juvenile
4 Justice from certificate of need requirements; to provide for legislative findings; to provide
5 for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 The General Assembly finds that the safety of the citizens of this state is an important and
9 primary goal for the well-being of this state. The General Assembly also recognizes that
10 there is an obligation to provide certain medical treatment to prisoners in penal institutions
11 in this state. The General Assembly further finds that transporting prisoners to community
12 hospitals for medical treatment presents a difficult situation of controlling the detainment of
13 prisoners while ensuring the safety of the general public. To this end, some penal institutions
14 may elect to establish medical facilities in such institutions to provide the most secure option
15 for rendering medical treatment to prisoners. It is the belief of the General Assembly that
16 for purposes of public safety and because these medical facilities do not compete with
17 hospitals open to the public, penal institutions should not have to obtain a certificate of need
18 for the establishment of such medical facilities.

19 **SECTION 2.**

20 Code Section 31-6-47 of the Official Code of Georgia Annotated, relating to exemptions
21 from the certificate of need program, is amended by revising subsection (a) as follows:

22 "(a) Notwithstanding the other provisions of this chapter, this chapter shall not apply to:
23 (1) Infirmaries operated by educational institutions for the sole and exclusive benefit of
24 students, faculty members, officers, or employees thereof;

- 1 (2) Infirmaries or facilities operated by businesses for the sole and exclusive benefit of
2 officers or employees thereof, provided that such infirmaries or facilities make no
3 provision for overnight stay by persons receiving their services;
- 4 (3) Institutions operated exclusively by the federal government or by any of its agencies;
- 5 (4) Offices of private physicians or dentists whether for individual or group practice,
6 except as otherwise provided in subparagraphs (G) and (H) of paragraph (14) of Code
7 Section 31-6-2;
- 8 (5) Christian Science sanatoriums operated or listed and certified by the First Church of
9 Christ Scientist, Boston, Massachusetts;
- 10 (6) Site acquisitions for health care facilities or preparation or development costs for
11 such sites prior to the decision to file a certificate of need application;
- 12 (7) Expenditures related to adequate preparation and development of an application for
13 a certificate of need;
- 14 (8) The commitment of funds conditioned upon the obtaining of a certificate of need;
- 15 (9) Expenditures for the acquisition of existing health care facilities by stock or asset
16 purchase, merger, consolidation, or other lawful means unless the facilities are owned or
17 operated by or on behalf of a:
 - 18 (A) Political subdivision of this state;
 - 19 (B) Combination of such political subdivisions; or
 - 20 (C) Hospital authority, as defined in Article 4 of Chapter 7 of this title;
- 21 (9.1) Expenditures for the restructuring of or for the acquisition by stock or asset
22 purchase, merger, consolidation, or other lawful means of an existing health care facility
23 which is owned or operated by or on behalf of any entity described in subparagraph (A),
24 (B), or (C) of paragraph (9) of this subsection only if such restructuring or acquisition is
25 made by any entity described in subparagraph (A), (B), or (C) of paragraph (9) of this
26 subsection;
- 27 (10) Expenditures for the minor repair of a health care facility, or parts thereof or
28 services provided or equipment used therein, or replacement of equipment, including, but
29 not limited to, CT scanners;
- 30 (11) Capital expenditures otherwise covered by this chapter required solely to eliminate
31 or prevent safety hazards as defined by federal, state, or local fire, building,
32 environmental, occupational health, or life safety codes or regulations, to comply with
33 licensing requirements of the Department of Human Resources, or to comply with
34 accreditation standards of the Joint Commission on Accreditation of Hospitals;
- 35 (12) Cost overruns whose percentage of the cost of a project is equal to or less than the
36 cumulative annual rate of increase in the composite construction index, published by the

1 Bureau of the Census of the Department of Commerce, of the United States government,
2 calculated from the date of approval of the project;

3 (13) Transfers from one health care facility to another such facility of major medical
4 equipment previously approved under or exempted from certificate of need review,
5 except where such transfer results in the institution of a new clinical health service for
6 which a certificate of need is required in the facility acquiring said equipment, provided
7 that such transfers are recorded at net book value of the medical equipment as recorded
8 on the books of the transferring facility;

9 (14) New institutional health services provided by or on behalf of health maintenance
10 organizations or related health care facilities in circumstances defined by the department
11 pursuant to federal law;

12 (15) Increases in the bed capacity of a hospital up to ten beds or 10 percent of capacity,
13 whichever is less, in any consecutive two-year period, in a hospital that has maintained
14 an overall occupancy rate greater than 85 percent for the previous 12 month period; ~~and~~

15 (16) Capital expenditures for a project otherwise requiring a certificate of need if those
16 expenditures are for a project to remodel, renovate, replace, or any combination thereof,
17 a medical-surgical hospital and:

18 (A) That hospital:

19 (i) Has a bed capacity of not more than 50 beds;

20 (ii) Is located in a county in which no other medical-surgical hospital is located;

21 (iii) Has at any time been designated as a disproportionate share hospital by the
22 Department of Community Health; and

23 (iv) Has at least 45 percent of its patient revenues derived from medicare, Medicaid,
24 or any combination thereof, for the immediately preceding three years; and

25 (B) That project:

26 (i) Does not result in any of the following:

27 (I) The offering of any new clinical health services;

28 (II) Any increase in bed capacity;

29 (III) Any redistribution of existing beds among existing clinical health services; or

30 (IV) Any increase in capacity of existing clinical health services;

31 (ii) Has at least 80 percent of its capital expenditures financed by the proceeds of a
32 special purpose county sales and use tax imposed pursuant to Article 3 of Chapter 8
33 of Title 48; and

34 (iii) Is located within a three-mile radius of and within the same county as the
35 hospital's existing facility; and

36 (17) Infirmaries or facilities operated by the Department of Corrections or the
37 Department of Juvenile Justice for the sole and exclusive purpose of providing health

1 care services in a secure environment to prisoners, guards, and other individuals within
2 a penal institution, penitentiary, prison, detention center, or other secure correctional
3 institution. This shall include correctional institutions operated by private entities in this
4 state which house inmates under the Department of Corrections or the Department of
5 Juvenile Justice."

6 **SECTION 3.**

7 All laws and parts of laws in conflict with this Act are repealed.