

House Bill 1299 (RULES COMMITTEE SUBSTITUTE)

By: Representatives Jacobs of the 80th, Cooper of the 41st, Willard of the 49th, Geisinger of the 48th, Lindsey of the 54th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to
2 require that certain hospital authorities contract with nonprofit corporations for the operation
3 and management of its hospitals; to provide for definitions; to provide for the composition
4 and appointment of the nonprofit corporation board; to provide for enforcement; to provide
5 that failure to contract with a nonprofit organization shall be considered a minimum function
6 of a hospital authority for purposes of removal of members; to provide for related matters;
7 to provide for an effective date; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 style="text-align:center">**SECTION 1.**

10 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended in Article
11 4 of Chapter 7, relating to county and municipal hospital authorities, by adding a new Code
12 section to read as follows:

13 "31-7-74.4.

14 (a) As used in this Code section, the term:

15 (1) 'Nonprofit corporation' means any nonprofit corporation qualified as exempt or which
16 has submitted an application for exemption from federal income taxation under Section
17 501(c) of the Internal Revenue Code.

18 (2) 'Nonprofit hospital management corporation' means a nonprofit corporation created
19 to manage and operate a public hospital under contract with a hospital authority pursuant
20 to Code Section 31-7-74.3 or other applicable laws.

21 (b) A hospital authority created by two counties shall provide, by contract, for the
22 management and operation by a nonprofit hospital management corporation of any hospital
23 which it owns. The board of the nonprofit hospital management corporation shall consist
24 of 17 members. The initial board members shall be appointed as follows:

25 (1) The Governor shall appoint four members as follows:

26 (A) One individual, who shall serve a term of one year;

- 1 (B) Two individuals, who shall each serve a term of two years; and
 2 (C) One individual, who shall serve a term of three years;
 3 (2) The Lieutenant Governor shall appoint four members as follows:
 4 (A) One individual, who shall serve a term of one year;
 5 (B) One individual, who shall serve a term of two years; and
 6 (C) Two individuals, who shall each serve a term of three years;
 7 (3) The Speaker of the House of Representatives shall appoint four members as follows:
 8 (A) One individual, who shall serve a term of one year;
 9 (B) One individual, who shall serve a term of two years; and
 10 (C) Two individuals, who shall each serve a term of three years;
 11 (4) The governing authority of the larger county, as determined by population, which
 12 created the hospital authority shall appoint three members as follows:
 13 (A) One individual, who shall serve a term of one year;
 14 (B) One individual, who shall serve a term of two years; and
 15 (C) One individual, who shall serve a term of three years; and
 16 (5) The governing authority of the smaller county, as determined by population, which
 17 created the hospital authority shall appoint two members as follows:
 18 (A) One individual, who shall serve a term of one year; and
 19 (B) One individual, who shall serve a term of two years.
- 20 A member shall serve until his or her successor has been duly appointed. Following the
 21 terms of the initial members, all successors shall be appointed by a majority of the
 22 remaining board for terms of three years and until their respective successors are duly
 23 appointed and qualified. Successor members shall have any qualifications deemed
 24 appropriate by the board.
- 25 (c) A hospital authority subject to the requirements of subsection (b) of this Code section
 26 which is not in compliance with such subsection shall be subject to one or more of the
 27 following:
- 28 (1) A mandamus action by the Attorney General or by any resident of any participating
 29 county of such hospital authority pursuant to Article 2 of Chapter 6 of Title 9 to compel
 30 the hospital authority to comply with this Code section;
 31 (2) A petition by any resident of any participating county of such hospital authority or
 32 the governing authority of such participating county of such hospital authority may be
 33 submitted to the superior court of the county wherein the hospital authority operates a
 34 hospital to require the hospital authority to comply with subsection (b) of this Code
 35 section. The judge of such court shall set a time for the hearing on such petition and after
 36 notice to the hospital authority shall hear and determine the petition. If it is determined
 37 that the hospital authority has failed to comply with the requirements of subsection (b)

1 of this Code section, the judge shall pass such orders as are necessary to effectuate
 2 compliance with such requirements. In the event the hospital authority fails to comply
 3 with subsection (b) of this Code section as required by court order, the members of the
 4 authority shall be subject to contempt proceedings by the court as provided by law; and
 5 (3) Potential removal from office of members of the hospital authority pursuant to Code
 6 Section 31-7-76 for failure to perform minimum functions required for the operation and
 7 maintenance of a public hospital.

8 (d) No state funds shall be provided to or for a hospital authority that is subject to the
 9 requirements of subsection (b) of this Code section which is not in compliance with such
 10 subsection. This subsection shall not apply to any Medicaid or PeachCare for Kids
 11 reimbursement funds or any funds provided by the state for medical education pursuant to
 12 Code Section 31-7-95."

13 SECTION 2.

14 Said title is further amended in Code Section 31-7-76, relating to procedures in the event of
 15 the failure of a hospital authority to perform minimum functions, by revising subsection (d)
 16 as follows:

17 "(d) At each hearing held as provided in subsection (c) of this Code section, the judge,
 18 sitting without a jury, shall inquire into and determine the question of whether the authority
 19 has ceased to perform the minimum functions required for the continued operation and
 20 maintenance of needed health care facilities in the county or municipality. In making ~~his~~
 21 the determination the judge shall consider, but shall not be limited by, whether the
 22 authority has:

23 (1) Failed to establish and enforce rates and charges as provided in Code Section
 24 31-7-77;

25 (2) Failed to take any reasonable action when the failure has the effect of jeopardizing
 26 repayment of principal or interest, when due, on revenue anticipation certificates issued
 27 by the authority;

28 (3) Failed to take any reasonable action when the failure has the effect of breaching a
 29 contract providing for continued maintenance and use of the authority's facilities and
 30 entered into with a county or municipality as provided in Code Section 31-7-85;

31 (4) Failed to make plans for unmet needs of the community as authorized by paragraph
 32 (22) of Code Section 31-7-75;

33 (5) Failed to make and file its annual report as provided in Code Section 31-7-90;

34 (6) Failed to adopt an annual budget as provided in Code Section 31-7-90;

35 (7) Failed to conduct the annual audit as provided in Code Section 31-7-91;

36 (8) Failed to report or publish the annual audit as provided in Code Section 31-7-92;

- 1 (9) Failed to hold at least one meeting in the preceding calendar quarter; or
2 (10) Failed to provide, by contract, for the management and operation by a nonprofit
3 corporation of its hospitals in accordance with Code Section 31-7-74.4, if applicable; or
4 ~~(10)~~(11) Failed to take any other action required pursuant to this article."

5 **SECTION 3.**

6 This Act shall become effective upon its approval by the Governor or upon its becoming law
7 without such approval.

8 **SECTION 4.**

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