

House Bill 399

By: Representatives Spencer of the 180th, Stover of the 71st, Quick of the 117th, and Tarvin of the 2nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 4 of Chapter 7 of Title 31 of the Official Code of Georgia Annotated,
2 relating to county and municipal hospital authorities, so as to revise various requirements and
3 provisions relative to county and municipal hospital authorities; to provide for legislative
4 findings; to revise definitions; to revise provisions relating to the composition of authorities;
5 to revise the manner of filling vacancies; to repeal certain population act provisions; to revise
6 residency requirements; to revise the oath; to provide for certain requirements prior to the
7 sale or lease by a hospital authority of a health care facility; to revise powers of hospital
8 authorities; to revise provisions relating to the proceeds of certain sales or leases; to revise
9 provisions relating to failure to perform minimum functions; to revise provisions regarding
10 contracts with political subdivisions; to revise provisions relating to the dissolution of a
11 hospital authority; to revise provisions relating to audits; to provide for related matters; to
12 repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

15 Article 4 of Chapter 7 of Title 31 of the Official Code of Georgia Annotated, relating to
16 county and municipal hospital authorities, is amended by adding a new Code section to read
17 as follows:

18 "31-7-70.1.

19 The General Assembly finds that:

20 (1) Hospital authorities are created to acquire and operate hospitals and other health care
21 facilities in counties and municipal corporations in order to promote public health goals
22 of the state;

23 (2) Hospital authorities are created to minister to the sick residents of each county and
24 municipal corporation;

25 (3) Hospital authorities are to assume the care and treatment of the indigent sick of the
26 establishing county or municipal corporation; and

27 (4) Hospital authorities are established to care for those sick or injured in cases where
 28 an accident or emergency occurred within that county or municipal corporation or in the
 29 area of operation of the hospital authority."

30

SECTION 2.

31 Said article is further amended in Code Section 31-7-71, relating to definitions, by adding
 32 new paragraphs and by revising paragraphs (4) and (5) as follows:

33 "(3.1) 'Health care facilities' means hospitals, nursing homes, rehabilitation centers,
 34 extended care facilities, pediatric facilities, ambulatory surgical centers or obstetrical
 35 facilities, and other facilities providing health care services to residents.

36 (4) 'Participating ~~units~~ unit' or 'participating ~~subdivisions~~ units' means any county or
 37 municipality activating an authority pursuant to this article or any two or more counties,
 38 ~~or~~ any two or more municipalities, or a combination of any county and any municipality
 39 acting together for the creation of an authority pursuant to this article.

40 (5) 'Project' includes the acquisition, construction, and equipping of ~~hospitals,~~ health care
 41 facilities, dormitories, office buildings, clinics, housing accommodations, ~~nursing homes,~~
 42 ~~rehabilitation centers, extended care facilities,~~ and other public health facilities for the use
 43 of patients and officers and employees of any institution under the supervision and
 44 control of any hospital authority or leased by the hospital authority for operation by
 45 others to promote the public health needs of the community and all utilities and facilities
 46 deemed by the authority necessary or convenient for the efficient operation thereof. Such
 47 term may include wellness centers or similar facilities for their indigent residents. Such
 48 term may also include any such institutions, utilities, and facilities located outside the city
 49 or county in which the authority is located, provided that the acquisition, construction,
 50 equipping, and operation thereof is requested or approved by the governing bodies of
 51 such city and county in which the project is located and by the board of any hospital
 52 authorities located within such city and county or provided that the acquisition,
 53 construction, equipping, and operation is to be located in the area of operation of the
 54 authority."

55 "(7) 'Wellness center' means a center or facility that provides wellness checks, including
 56 but not limited to blood pressure checks, cholesterol checks, diabetes screenings, and
 57 body mass index checks."

58

SECTION 3.

59 Said article is further amended in Code Section 31-7-72, relating to creation of a hospital
 60 authority in each county and municipality, by revising subsections (a), (b), and (g) as
 61 follows:

62 "(a) There is created in and for each county and municipal corporation of the state a public
 63 body corporate and politic to be known as the 'hospital authority' of such county or city,
 64 which shall consist of a board of not less than five nor more than ~~nine~~ 11 members to be
 65 appointed by the governing body of the county or municipal corporation of the area of
 66 operation for staggered terms as specified by resolution of the governing body. ~~The~~
 67 ~~number of members of any hospital authority as of March 1, 1984, may be increased by not~~
 68 ~~more than two additional members by the adoption of a resolution of the members of the~~
 69 ~~hospital authority, and such additional members shall be appointed through the same~~
 70 ~~process used for filling vacancies which was in effect for such hospital authority on~~
 71 ~~January 1, 1984. All appointed members shall serve at the pleasure of the governing body~~
 72 ~~of the county or municipal corporation.~~ Whenever an appointment to fill a vacancy on the
 73 board of any hospital authority is made, either for an unexpired term or a full term,
 74 consideration shall be given as to whether a licensed ~~doctor of medicine~~ physician or
 75 registered professional nurse currently serves on such authority. If no licensed ~~doctor of~~
 76 ~~medicine~~ physician or registered professional nurse currently serves on such authority, then
 77 consideration shall be given to the nomination and choice of a licensed ~~doctor of medicine~~
 78 physician or a registered professional nurse to fill such vacancy. No authority created
 79 under this Code section shall transact any business or exercise any powers under this Code
 80 section until the governing body of the area of operation shall, by proper resolution, declare
 81 that there is need for an authority to function in such county or municipal corporation.
 82 Copies of a resolution so adopted and any resolution adopted by the governing body
 83 providing for filling vacancies in the membership of the authority or making any changes
 84 in membership shall be filed with the department.

85 (b) ~~Appointments~~ Except as otherwise provided in subsection (c) of this Code section, on
 86 and after July 1, 2015, appointments to fill vacancies on the board of any hospital authority
 87 ~~activated on or after March 15, 1964, for either an unexpired or full term as fixed in the~~
 88 ~~original resolution or ordinance creating the authority, shall be made by the governing body~~
 89 of the county or municipal corporation of the area of operation. as follows:

90 (1) ~~The governing body of the area of operation shall submit a list of three eligible~~
 91 ~~persons to the board of the hospital authority;~~

92 (2) ~~The board at its next regular meeting shall either select one of the three persons~~
 93 ~~named in such list or decline to select any of the persons named in the list. If the board~~
 94 ~~declines to select any of the persons named on the list, it shall so notify the governing~~
 95 ~~body; and~~

96 (3) ~~Upon receipt of notification that the board has declined to select any of the persons~~
 97 ~~named in the governing body's list, the governing body shall submit a second list of three~~
 98 ~~eligible persons, no one of whom was named on the first list, to the board of the hospital~~

99 authority. ~~The board at its next regular meeting after receipt of the second list shall select~~
 100 ~~one of the three persons named in the second list."~~

101 "(g) Hospital authorities created pursuant to this Code section shall have perpetual
 102 existence unless otherwise dissolved pursuant to Code Section 31-7-89."

103 **SECTION 4.**

104 Said article is further amended in Code Section 31-7-72, relating to creation of a hospital
 105 authority in each county and municipality, by repealing in their entirety subsections (d) and
 106 (e) and by enacting new subsections (d) and (e) to read as follows:

107 "(d) Any two or more counties, any two or more municipalities, any county and
 108 municipality, or any combination of one or more counties and one or more municipalities,
 109 by a like resolution or ordinance of their respective governing bodies, may authorize the
 110 exercise of the powers provided for in this article by an authority. The membership of such
 111 authority effected by like resolutions of the respective governing bodies of any two or more
 112 of the participating units shall be not less than five nor more than 15 members to be
 113 appointed by and to serve at the pleasure of the respective governing body, the terms and
 114 distribution of members between the participating units to be provided for by the
 115 resolutions adopted by the governing bodies of the participating units. The resolutions of
 116 the governing bodies of participating units acting together for the creation of an authority
 117 may be amended by the governing bodies of the participating units from time to time.

118 (e) Nothing in this Code section is intended to invalidate any of the acts of existing boards
 119 of authorities. Hospital authorities shall be granted the same exemptions and exclusions
 120 from taxes as are granted to cities and counties for the operation of facilities similar to
 121 facilities to be operated by hospital authorities as provided for under this title."

122 **SECTION 5.**

123 Said article is further amended by revising Code Section 31-7-74, relating to residency
 124 requirements, officers, compensations, and rules and regulations, as follows:

125 "31-7-74.

126 The members of a hospital authority shall be full-time residents of the participating units
 127 comprising the authority. The requirement of residence shall not apply to authorities
 128 activated under subsection (d) of Code Section 31-7-72, provided that they are selected
 129 from within the area of service and within 12 miles of the hospital location or within 12
 130 miles of the sponsoring county or municipality, whichever is farther. The members shall
 131 elect one of their number as ~~chair~~ chairperson and another as vice ~~chair~~ chairperson and
 132 shall also elect a secretary-treasurer, who need not be a member. The members shall
 133 receive no compensation for their services, either as members or as employees of the

134 authority, but may be reimbursed for their actual expenses incurred in the performance of
 135 their duties, or; in the alternative, the members may elect to be reimbursed for such
 136 expenses on a per diem basis in an amount not to exceed \$100.00 per meeting and the total
 137 amount not to exceed \$100.00 per month. The authority shall make rules and regulations
 138 for its governance and may delegate to one or more of its members, officers, agents, or
 139 employees such powers and duties as may be deemed necessary and proper."

140 **SECTION 6.**

141 Said article is further amended in Code Section 31-7-74.1, relating to prohibited transactions
 142 by county and municipal hospital authority members, by revising subsection (b) as follows:

143 "(b) Each member of a hospital authority shall disclose upon his or her selection as a
 144 member, and at least annually thereafter, the following described interests and
 145 relationships:

146 (1) Any financial interest held by the member or the member's family, or held by an
 147 entity in which the member or the member's family owns a financial interest, in any
 148 health care provider, any managed care provider or network, or any entity which sells
 149 products or services to the authority;

150 (2) Any position held by the member or the member's family as an officer, director, or
 151 employee of a ~~hospital~~ health care facility, ~~hospital~~ health care facility holding company,
 152 other health care provider, or managed care network; and

153 (3) Any contract which exists between the member or the member's family, or any entity
 154 in which the member or the member's family owns a financial interest, and the authority,
 155 including, but not limited to, supply contracts, service contracts, and leases."

156 **SECTION 7.**

157 Said article is further amended by revising Code Section 31-7-74.2, relating to the oath to be
 158 taken by members of a hospital authority, as follows:

159 "31-7-74.2.

160 Each member of a hospital authority shall take in the presence of an officer authorized to
 161 administer same the following oath:

162 I, _____, citizen of _____ County, Georgia, do solemnly
 163 swear that I will, to the best of my ability, without favor or affection to any person and
 164 without any unauthorized financial gain or compensation to myself, faithfully and fairly
 165 discharge all of the duties and responsibilities that devolve upon me as a member of
 166 _____ Hospital Authority, including abiding by all contracts entered into and
 167 all conditions agreed to by the hospital authority, during the term of my service as such
 168 member."

SECTION 8.

169
170 Said article is further amended by revising Code Section 31-7-74.3, relating to the sale or
171 lease by a hospital authority, hearing required, factors to be considered at the hearing,
172 applicability, and requirements for a lease, as follows:

173 "31-7-74.3.

174 (a) No ~~hospital~~ health care facility which is owned by a hospital authority may be sold or
175 leased to a for profit entity, a not for profit entity, or another hospital authority unless a
176 public hearing regarding such action is held in the county where such ~~hospital~~ health care
177 facility is located at least 60 days prior to such sale or lease becoming effective. In the
178 event there is more than one participating unit for an authority, a hearing shall be held in
179 each participating unit's county at least 60 days prior to the sale or lease becoming
180 effective. The hospital authority must publish notice of the hearing at least three times,
181 with the first such notice appearing at least 60 days prior to the hearing in the legal organ
182 of each participating unit. At each such public hearing, the hospital authority shall
183 describe, discuss, or otherwise disclose:

184 (1) The reasonably foreseeable adverse and beneficial effects of such lease or sale upon
185 health care in the service area of the ~~hospitals~~ health care facility to be leased or sold,
186 and, for purposes of this paragraph, the service area shall include the county in which the
187 ~~hospital~~ health care facility is located and each adjoining county;

188 (2) A financial statement and independent appraisal indicating the estimated value of the
189 total assets and liabilities to be transferred or received in the transaction; provided,
190 however, that if the value of any individual asset exceeds \$100,000.00, a description and
191 the value of such assets shall be indicated on the financial statement; and

192 (3) The resumes of the top five executive officers who will manage the health care
193 facility after it is sold or leased.

194 This subsection shall not apply to any transaction which is subject to the provisions of
195 Code Section 31-7-89.1.

196 (b) No ~~hospital~~ health care facility which is owned by a hospital authority may be leased
197 to another person, corporation, or business entity, other than as provided in paragraphs (23)
198 and (24) of Code Section 31-7-75, unless such lease requires that:

199 (1) At least one member of the hospital authority will serve as a full voting member upon
200 the governing body or local board of the business entity exercising control and
201 management powers over the leased ~~hospital~~ health care facility; and

202 (2) The governing body or local board of the business entity exercising control and
203 management powers over the leased ~~hospital~~ health care facility submits to the governing
204 authority body of each county in which the ~~hospital~~ health care facility is located, within

205 90 days after the close of the calendar year or that entity's fiscal year, a complete and
 206 detailed financial statement for that entity.
 207 (c) Provisions of a lease required by subsection (b) of this Code section may not be
 208 renegotiated or otherwise altered or amended for the duration of such lease."

209 **SECTION 9.**

210 Said article is further amended by adding a new Code section to read as follows:

211 "31-7-74.4.

212 Each member of the hospital authority shall attend and complete at least eight hours of
 213 training on health care services and the operation of health care facilities within the first
 214 12 months of the member's appointment to the hospital authority. Such training shall be
 215 conducted in accordance with criteria established by the Department of Community Affairs
 216 for such purpose. Members in office on January 1, 2015, shall be exempt from this
 217 requirement unless reappointed for an additional term."

218 **SECTION 10.**

219 Said article is further amended in Code Section 31-7-75, relating to functions and powers of
 220 county and municipal hospital authorities, by revising paragraphs (6), (12), (17), and (24) as
 221 follows:

222 "(6) To sell to others, or to lease to others for any number of years up to a maximum of
 223 40 years, any lands, buildings, structures, or facilities constituting all or any part of any
 224 existing or hereafter established project. In the event a hospital authority undertakes to
 225 sell a ~~hospital~~ health care facility, such authority shall, prior to the execution of a contract
 226 of sale, provide reasonable public notice of such sale and provide for a public hearing to
 227 receive comments from the public concerning such sale. This power shall be unaffected
 228 by the language set forth in paragraph (13) of this Code section or any implications
 229 arising therefrom unless grants of assistance have been received by the authority with
 230 respect to such lands, buildings, structures, or facilities, in which case approval in writing
 231 as set forth in paragraph (13) of this Code section shall be obtained prior to selling or
 232 leasing to others within 20 years after completion of construction;"

233 "(12) To ~~acquire~~ receive from a governing body of the area of operation that is acquiring
 234 property by the exercise of the right of eminent domain any property essential to the
 235 purposes of the authority. The right of eminent domain may only be exercised under this
 236 article by the governing body of a county or municipal corporation;"

237 "(17) To borrow money for any corporate purpose; provided, however, that if the
 238 obtaining of any loan would cause the total current and long-term debt of the authority,
 239 as determined through current financial statements, the most current audit conducted

240 pursuant to Code Section 31-7-91, and independent appraisals, to exceed 50 percent of
 241 the value of the collateral eligible assets of the authority, such loan shall not be entered
 242 into without a prior referendum and approval of a majority of the voters of the area of
 243 operation;"

244 "(24) To provide management, consulting, and operating services, including, but not
 245 limited to, administrative, operational, personnel, and maintenance services to another
 246 hospital authority, ~~hospital~~, health care facility, ~~as said term is defined in Chapter 6 of this~~
 247 ~~title~~, person, firm, corporation, or any other entity or any group or groups of the
 248 foregoing; to enter into contracts alone or in conjunction with others to provide such
 249 services without regard to the location of the parties to such transactions; to receive
 250 management, consulting, and operating services including, but not limited to,
 251 administrative, operational, personnel, and maintenance services from another such
 252 hospital authority, ~~hospital~~, health care facility, person, firm, corporation, or any other
 253 entity or any group or groups of the foregoing; and to enter into contracts alone or in
 254 conjunction with others to receive such services without regard to the location of the
 255 parties to such transactions;"

256 SECTION 11.

257 Said article is further amended in Code Section 31-7-75.1, relating to proceeds of sale of a
 258 hospital held in trust to fund indigent hospital care, by revising subsections (a), (b), and (c)
 259 as follows:

260 "(a) ~~The~~ Except as otherwise provided in Code Section 31-7-75.3, the proceeds from any
 261 sale or lease of a ~~hospital~~ health care facility owned by a hospital authority or political
 262 subdivision of this state, ~~which proceeds shall not include~~ not including funds required to
 263 pay off the bonded indebtedness of the sold ~~hospital~~ health care facility or any expense of
 264 the authority or political subdivision attributable to the sale or lease, shall be held by the
 265 ~~authority or political subdivision~~ in an irrevocable trust fund. Such proceeds in ~~that~~ such
 266 trust fund may be invested in the same way that public moneys may be invested generally
 267 pursuant to general law, but money in ~~that~~ such trust fund shall be used exclusively for
 268 funding the provision of ~~hospital~~ health care or wellness programs for the indigent residents
 269 of the political subdivision which owned the ~~hospital~~ health care facility or by which the
 270 authority was activated or for which the authority was created. If the funds available for
 271 a political subdivision in ~~that~~ such irrevocable trust fund are less than \$100,000.00, the
 272 principal amount may be used to fund the provision of indigent ~~hospital~~ health care or
 273 wellness programs; otherwise, only the income from ~~that~~ such trust fund may be used for
 274 ~~that~~ such care or programs. Such funding or reimbursement for indigent care shall not
 275 exceed the diagnosis related group rate for that hospital in each individual case.

276 (b) In the event a hospital authority which sold or leased a ~~hospital~~ health care facility was
 277 activated by or created for more than one political subdivision or in the event a ~~hospital~~
 278 health care facility having as owner more than one political subdivision is sold or leased
 279 by those political subdivisions, each such constituent political subdivision's portion of the
 280 irrevocable trust fund for indigent ~~hospital~~ health care shall be determined by multiplying
 281 the amount of ~~that such trust~~ fund by a figure having a numerator which is the population
 282 of that political subdivision and a denominator which is the combined population of all the
 283 political subdivisions which owned the ~~hospital~~ health care facility or by which or for
 284 which the authority was activated or created.

285 (c) For purposes of ~~hospital~~ health care and wellness programs for the indigent under this
 286 Code section, the standard of indigency shall be that determined under Code Section
 287 31-8-43, relating to standards of indigency for emergency care of pregnant women, based
 288 upon 125 percent of the federal poverty level."

289 SECTION 12.

290 Said article is further amended in Code Section 31-7-75.1, relating to proceeds of sale of a
 291 hospital held in trust to fund indigent hospital care, by repealing subsection (d) and by
 292 enacting a new subsection (d) to read as follows:

293 "(d) This Code section shall not apply to the following actions:

294 (1) A reorganization or restructuring;

295 (2) Any sale of a hospital, or the proceeds from that sale, made prior to April 2, 1986;
 296 and

297 (3) Any sale or lease of a health care facility when the purchaser or lessee pledges, by
 298 written contract entered into concurrently with such purchase or lease, to provide an
 299 amount of health care equal to that which would have otherwise been available pursuant
 300 to subsections (a), (b), and (c) of this Code section for the indigent residents of the
 301 political subdivisions which owned the health care facility, by which the hospital
 302 authority was activated, or for which the authority was created. However, the exception
 303 to this Code section provided by this paragraph shall only apply to:

304 (A) Hospital authorities that operate a licensed health care facility pursuant to a lease
 305 from the county which created the appropriate authority;

306 (B) Hospitals that have a bed capacity of more than 150 beds;

307 (C) Hospitals located in a county in which no other medical-surgical licensed hospital
 308 is located; and

309 (D) Hospitals operated by a hospital authority that entered into a lease-purchase
 310 agreement between such hospital and a private corporation prior to July 1, 1997."

311 **SECTION 13.**

312 Said article is further amended by revising Code Section 31-7-75.2, relating to exemption
 313 from disclosure for potentially commercially valuable plan, proposal, or strategy, as follows:

314 "31-7-75.2.

315 Notwithstanding any other provision of law to the contrary, no Georgia nonprofit
 316 corporation in its operation of a ~~hospital or other medical~~ health care facility for the benefit
 317 of a governmental entity in this state and no hospital authority shall be required by Chapter
 318 14 of Title 50 or Article 4 of Chapter 18 of Title 50 to disclose or make public any
 319 potentially commercially valuable plan, proposal, or strategy that may be of competitive
 320 advantage in the operation of the corporation or authority or its ~~medical~~ health care
 321 facilities and which has not been made public. This exemption shall terminate at such time
 322 as such plan, proposal, or strategy has either been approved or rejected by the governing
 323 board of such corporation or hospital authority. Except as provided in this Code section
 324 or as otherwise provided by law, hospital authorities shall comply with the provisions of
 325 Chapter 14 of Title 50 and Article 4 of Chapter 18 of Title 50."

326 **SECTION 14.**

327 Said article is further amended by adding a new Code section to read as follows:

328 "31-7-75.3.

329 (a) On and after July 1, 2015, if a hospital authority:

330 (1) Closes or terminates the operation of all of its health care facilities, including the
 331 lease or contract for the operation of all projects; or

332 (2) Sells all of its health care facilities and does not lease or contract for the operation of
 333 any project,

334 then the hospital authority and the governing body or bodies of its participating units shall,
 335 within 60 days of the final closure or sale, initiate proceedings for dissolution in accordance
 336 with Code Section 31-7-89.

337 (b) If, as of June 30, 2015, a hospital authority is not operating a health care facility or
 338 leasing or contracting for the operation of a health care facility, it shall liquidate all of its
 339 assets if the governing body or bodies of its participating unit or units so directs.

340 (c) This Code section shall not apply if a hospital authority is insolvent.

341 (d) This Code section shall not be construed to negate or revise any court order in effect
 342 on June 30, 2015, regarding the operation of any hospital authority."

343

SECTION 15.

344 Said article is further amended by revising Code Section 31-7-76, relating to the procedure
 345 in the event of the failure of an authority to perform minimum functions, determination of
 346 removal from office, and appointments to fill vacancies created by removal, as follows:

347 "31-7-76.

348 (a) The General Assembly declares that it is the intent of this article to provide a
 349 mechanism for the operation and maintenance of needed health care facilities in the several
 350 counties and municipalities of this state. It is the further intent of the General Assembly
 351 that, whenever an authority ceases to perform the minimum functions required for the
 352 continued operation and maintenance of needed health care facilities in the county or
 353 municipality, a procedure be made available to recognize the failure of the authority to
 354 perform these minimum functions and to provide for the orderly and responsible
 355 reorganization of the authority.

356 (b)(1) Whenever it appears that an authority has ceased to perform the minimum
 357 functions required for the continued operation and maintenance of needed health care
 358 facilities in the county or municipality in which the authority is authorized to function,
 359 the governing body or bodies of such county or municipality shall, within 90 days:

360 (A) Notify each of its appointed authority members that he or she will be removed
 361 from office if the failure to perform minimum functions is not corrected within 90 days.
 362 Such authority members shall be removed by the governing body if such failure is not
 363 corrected within 90 days of notice and shall not be eligible for reappointment; or

364 (B) File a petition ~~may be filed~~ in the superior court in the county requesting that the
 365 members of the authority be removed from office and that any vacancy created by a
 366 removal be filled as provided in Code Section 31-7-72 ~~for the initial appointment of~~
 367 ~~members of an authority. Each such petition shall be filed by one or more residents of~~
 368 ~~the county in which the authority is authorized to function, or by the county governing~~
 369 ~~authority, and shall be supported by petition of a number of residents of the county~~
 370 ~~equal to 5 percent or more of the number of electors registered to vote in the general~~
 371 ~~election last held in the county. In the case of an authority authorized to function solely~~
 372 ~~within a municipality, the petition shall be filed by one or more residents of the~~
 373 ~~municipality in which the authority is authorized to function, or by the municipal~~
 374 ~~governing authority, and shall be supported by petition of a number of residents of the~~
 375 ~~municipality equal to 5 percent or more of the number of electors registered to vote in~~
 376 ~~the general election last held in the municipality.~~

377 (2) In the event a governing body fails to provide notice or file a petition as required by
 378 paragraph (1) of this subsection, the members of the governing body shall be subject to
 379 contempt proceedings by the court as provided by law.

380 (c) Upon the filing of any petition as provided in ~~subsection (b)~~ subparagraph (b)(1)(B)
 381 of this Code section, the judge of the superior court shall set a hearing to inquire into the
 382 merits of the petition not sooner than ten days nor later than 30 days from the date of filing
 383 of the petition. The hearing may be continued, in the discretion of the judge, on motion of
 384 any party.

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

391 (1) Failed to establish and enforce rates and charges as provided in Code Section
 392 31-7-77;

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

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

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

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

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

403 (7) Failed to file a community benefit report as provided in Code Section 31-7-90.1;

404 ~~(7)(8)~~ Failed to conduct the annual audit as provided in Code Section 31-7-91;

405 ~~(8)(9)~~ Failed to report or publish the annual audit as provided in Code Section 31-7-92;

406 (10) Failed to annually register with the Department of Community Affairs as provided
 407 in Code Section 36-80-16;

408 ~~(9)(11)~~ Failed to hold at least one meeting in the preceding calendar quarter; or

409 ~~(10)(12)~~ Failed to take any other action required pursuant to this article.

410 (e) After giving all parties an opportunity to be heard, the judge shall determine, based on
 411 the evidence presented, whether the clear and convincing weight of the evidence is that the
 412 authority has ceased to perform the minimum functions required for the continued
 413 operation and maintenance of needed health care facilities in the county or municipality.
 414 In the event the judge so decides, he or she shall order the immediate removal from office
 415 of the members of the authority, except that no member shall be removed who
 416 demonstrates to the satisfaction of the judge his or her good faith attempt to fulfill his or

417 her duties as a member of the authority. In the event the court denies the petition, the
 418 petition shall be dismissed. Any authority members removed pursuant to this subsection
 419 shall not be eligible for reappointment.

420 (f) Vacancies created pursuant to this Code section shall be filled ~~in the same manner as~~
 421 ~~provided in Code Section 31-7-72 for the initial appointment of members of an authority.~~
 422 ~~Vacancies created by the expiration of the term or the resignation or disability of a member~~
 423 ~~appointed pursuant to this Code section shall be filled~~ as provided in Code Section 31-7-72
 424 for the filling of vacancies.

425 (g) This Code section shall not impair the power of a governing body to remove any of its
 426 appointed authority members pursuant to the at-will status of each such member under
 427 Code Section 31-7-72."

428 **SECTION 16.**

429 Said article is further amended in Code Section 31-7-84, relating to payment for authority's
 430 services and facilities, levy of tax by political subdivisions, and compliance by authority with
 431 county budgetary procedures, by revising subsections (a) and (b) as follows:

432 "(a) An authority shall have no power to tax, but upon the adoption of the resolution by the
 433 governing body or bodies of participating units ~~or subdivisions~~ as provided in this article
 434 and the execution of a contract for the use of facilities and services of the authority by
 435 political subdivisions or participating units as authorized in Code Section 31-7-85,
 436 provision shall be made annually by such participating units or political subdivisions
 437 contracting with an authority for the payment for the services and facilities of the authority
 438 used by the participating units ~~or subdivisions~~ or the residents thereof out of general funds
 439 of the participating units ~~or subdivisions~~ or out of tax revenues realized for the purpose of
 440 providing medical care or hospitalization for the indigent sick and others entitled to the use
 441 of the services and facilities of the authority.

442 (b) For the purpose of providing such tax revenues as specified ~~above~~ in subsection (a) of
 443 this Code section, there is authorized to be levied an ad valorem tax not exceeding seven
 444 mills, exclusive of all other taxes which may be levied by counties or by cities or by towns,
 445 from which revenues when realized there shall be appropriated annually sums sufficient
 446 to pay for the cost of the use of the services and facilities of authorities by participating
 447 ~~subdivisions~~ units or the residents thereof pursuant to the provisions and covenants of the
 448 contract between such participating units ~~and subdivisions~~ and authorities. In determining
 449 the cost of such services and facilities furnished pursuant to such contract, there may be
 450 included, but without limiting same, the following:

451 (1) The cost of acquiring, constructing, altering, repairing, renovating, improving, and
 452 equipping projects; and

453 (2) Principal, interest, and sinking fund and other reserve requirements in connection
 454 with the issuance of revenue certificates, bonds, or obligations by authorities to finance,
 455 in whole or in part, the cost of projects and the payment of expenses incident thereto; the
 456 cost of operating, maintaining, and repairing such projects; and the cost of retiring,
 457 refinancing, or refunding any outstanding debt or other obligation of any nature incurred
 458 by such authorities."

459 **SECTION 17.**

460 Said article is further amended by revising Code Section 31-7-85, relating to contracts with
 461 political subdivisions, as follows:

462 "31-7-85.

463 (a) For the purpose of using ~~such~~ the health care facilities of an authority, any city or
 464 county is authorized by action of its governing body to enter into contracts with ~~an~~ such
 465 authority for such periods of time not exceeding 40 years as shall be necessary to provide
 466 for the continued maintenance and use of ~~the~~ such facilities ~~of an authority~~. Sums due and
 467 payable under such contract shall be determined from year to year during the period of such
 468 contract and no sums shall be paid for the services in excess of the amounts necessary to
 469 provide for the maintenance and operation of projects of authorities and such sums as shall
 470 be necessary to provide adequate and necessary facilities for medical care and
 471 hospitalization of the indigent sick, including reasonable reserves necessary for expansion
 472 and necessary for the payment of the cost of facilities of the projects, provided that any
 473 such contract may obligate a city or county or any combination thereof to pay for such
 474 services a fixed and definite minimum sum each year based or calculated upon the
 475 anticipated cost of such services including the cost and expense of making the facilities of
 476 the authority available for the furnishing and performance of such services. The contracts
 477 authorized under this Code section to be entered into between cities or counties or any
 478 combination thereof and an authority may provide for the conveyance or lease of any
 479 existing ~~hospital~~ health care facilities or projects to an authority created by any such cities
 480 or counties for a nominal consideration only, provided that such conveyance shall contain
 481 a clause providing that, upon dissolution of the authority, such ~~hospital~~ health care facilities
 482 or projects shall revert to the city or county conveying the same to the authority and
 483 provided, further, that no property so conveyed may be mortgaged or in any way given as
 484 security for an indebtedness of the authority; this limitation is not to be construed as
 485 limiting the right of the authority to pledge or hypothecate revenues which may be realized
 486 by the authority from the operation of any property so conveyed to the authority.

487 (b) When, in accordance with this article, any county shall activate a hospital authority for
 488 such county and such authority shall acquire or construct or shall make preparations to

489 acquire or construct a ~~hospital~~ health care facility in the county, any municipality in the
 490 county shall be authorized to contract with the hospital authority for the care in such
 491 ~~hospital~~ health care facility of indigent sick or injured persons who are residents of the
 492 municipality either on a per-patient-per-day basis or for a fixed amount of money payable
 493 at such time as the contracting parties may agree upon; and any such contract may, at the
 494 election of such municipality, be binding upon it for a period of not exceeding 40 years.
 495 Such contract and the amount to be received by the hospital authority thereunder may be
 496 pledged by the hospital authority as security for the payment of the principal and interest
 497 of any bonds or revenue anticipation certificates which it may issue in order to acquire or
 498 construct the ~~hospital~~ health care facility.

499 (c) No governing body of a city or county shall extend a loan or any funds or guarantee
 500 of funds to a hospital authority without verifying, through current financial statements, the
 501 most current audit conducted pursuant to Code Section 31-7-91, and appraisals indicating
 502 the total assets and liabilities of the hospital authority, the ability of the hospital authority
 503 to comply with all repayment terms and conditions."

504 **SECTION 18.**

505 Said article is further amended by revising Code Section 31-7-87, relating to hypothecation
 506 or mortgaging of purchased hospital facilities, as follows:

507 "31-7-87.

508 Should an authority acquire by purchase existing ~~hospital~~ health care facilities of political
 509 subdivisions and pay the reasonable value therefor, nothing in this article shall be construed
 510 to prevent the hypothecation or mortgaging of such facilities as security for the repayment
 511 of any indebtedness which may be legally incurred by such authority."

512 **SECTION 19.**

513 Said article is further amended by revising Code Section 31-7-89, relating to the procedure
 514 for dissolution and disposition of property, as follows:

515 "31-7-89.

516 By joint action of the board of trustees of an authority and the governing bodies of
 517 participating units, authorities created under and pursuant to the terms of this article may
 518 be dissolved, provided that no such dissolution shall in any way impair the rights of third
 519 persons or the contracts of the authority with such third persons. Prior to its dissolution,
 520 an authority shall cause all real property to be appraised and shall have conducted a final
 521 audit of its assets in the same manner and subject to the same requirements as contained
 522 in Code Sections 31-7-91 through 31-7-93. Disposition to be made of the property of the
 523 authority upon dissolution shall be covered in any resolution adopted by the participating

524 units and the board of trustees of the authority; provided, however, that any and all
 525 remaining assets of the authority shall be distributed among the governing bodies of
 526 participating units in a similar manner as contained in subsection (b) of Code Section
 527 31-7-75.1. Such assets may be used by such governing bodies for the provision of indigent
 528 health care or wellness programs or for such other purposes as the governing bodies are
 529 authorized to use public funds. At no time, however, shall any authority upon dissolution
 530 convey any of its property, except as may be otherwise authorized by law, to any private
 531 person, association, or corporation."

532 SECTION 20.

533 Said article is further amended by revising Code Section 31-7-90.1, relating to community
 534 benefit reports and reports disclosing member ownership in entities transacting business with
 535 a hospital authority, as follows:

536 "31-7-90.1.

537 (a)(1) Each hospital authority created by and under this article, which has been activated
 538 by one or more governing bodies, regardless of whether such hospital authority owns,
 539 operates, or leases a health care facility or other project, shall annually prepare a
 540 community benefit report disclosing the cost of indigent and charity care provided by
 541 such authority for the preceding year not later than 90 days after the close of the fiscal or
 542 calendar year. Such report provided for in this Code section shall include a statement of
 543 the cost and type of indigent and charity care provided by the authority, including the
 544 number of indigent persons served, categorization of those persons by county of
 545 residence, as well as the cost of indigent and charity care provided in dollars. Such
 546 community benefit report shall be filed with the clerk of superior court of the county in
 547 which the authority's ~~hospital~~ health care facility is located, as well as with the governing
 548 body or bodies of such authority's participating units.

549 (2) The department may withhold all or any portion of any state grants or funds that the
 550 hospital authority is eligible to receive pursuant to Code Section 31-7-94 or 31-7-94.1,
 551 disproportionate share hospitals funds, or any other applicable state or federal grants or
 552 funds. In the event that the department withholds any such grants or funds, the
 553 department shall provide notice of such action to the governing body of each participating
 554 unit of the authority and to the members of the legislative delegation of the General
 555 Assembly who represent such participating units.

556 (b) Each hospital authority created by and under this article shall also annually prepare a
 557 report indicating any entity in which a member or member's family has a direct or indirect
 558 ownership of assets or stock constituting between 10 percent and 25 percent which
 559 transacted business with the authority during the previous year. Such report shall be filed

560 with the clerk of superior court of the county in which the authority's hospital health care
 561 facility is located, as well as with the governing body or bodies of such authority's
 562 participating units."

563 **SECTION 21.**

564 Said article is further amended by revising Code Section 31-7-91, relating to required annual
 565 audits, as follows:

566 "31-7-91.

567 Each hospital authority created by and under this article, which has been activated by one
 568 or more governing bodies, regardless of whether such hospital authority owns, operates,
 569 or leases a health care facility or other project, shall ensure that an annual audit of the
 570 financial affairs, books, and records of such authority is conducted at the end of each fiscal
 571 year for the preceding year. Each hospital authority shall obtain either a certified public
 572 accountant or a firm of certified public accountants to conduct such audit. The auditor so
 573 appointed shall perform the audit in accordance with generally accepted accounting
 574 principles and shall submit a complete and final report and audit to the authority not later
 575 than 90 days after the close of the fiscal year. All audits provided for in this Code section
 576 shall be certified to and shall include, but in no way be limited to, a full and complete audit
 577 containing a balance sheet, profit and loss statement, and statement of receipts and
 578 disbursements. Such audit shall be accompanied by the most recent IRS Form 990, Return
 579 of Organization Exempt From Income Tax, filed by the authority or any of its nonprofit
 580 entities."

581 **SECTION 22.**

582 Said article is further amended by revising Code Section 31-7-92, relating to the filing of
 583 audits, as follows:

584 "31-7-92.

585 (a) All final audits provided for in Code Section 31-7-91 shall be reproduced in sufficient
 586 number, and copies of the audit shall be filed with the department, with the Department of
 587 Audits and Accounts, with the clerk of the superior court in the county where any hospital
 588 health care facility or other project is operated, owned, or leased by a hospital authority,
 589 and in the office of the clerk of the superior court of any county that is a participating unit
 590 of the authority. In the event any hospital health care facility or other project is operated,
 591 owned, or leased by a municipal hospital authority, the audit required by this Code section
 592 to be filed with the office of the clerk of the superior court shall be filed in the office of city
 593 clerk, clerk of council, clerk of the board of aldermen, or clerk of the governing body of
 594 the municipality; in lieu of being filed with the clerk of the superior court.

595 (b) The Department of Audits and Accounts shall review the final audits submitted, and
 596 if it finds irregularities or budget deficits, it shall report such irregularities or budget
 597 deficits to the department, the hospital authority, the governing body or bodies of such
 598 authority's participating units, and the members of the legislative delegation of the General
 599 Assembly who represent such participating units."

600 **SECTION 23.**

601 Said article is further amended by revising Code Section 31-7-93, relating to failure to
 602 provide for an audit, as follows:

603 "31-7-93.

604 In the event any hospital authority shall fail or refuse to provide for an annual audit and
 605 have such audit prepared and filed and accompanied by IRS Form 990 as set forth in Code
 606 Sections 31-7-91 and 31-7-92; or shall fail to register annually with the Department of
 607 Community Affairs as provided in Code Section 36-80-16:

608 (1) The governing body of the participating unit shall within ten days any taxpayer of
 609 any participating unit of such authority or the governing authority of such unit may
 610 petition the superior court of the county wherein the authority operates, owns, or leases
 611 a health care facility or other project a hospital to require the authority to have such audit
 612 prepared and filed and accompanied by IRS Form 990 as provided by the above Code
 613 sections Code Sections 31-7-91 and 31-7-92 or to register as provided by Code Section
 614 36-80-16. The judge of such court shall set a time for the hearing on such petition and
 615 after notice to the authority shall hear and determine the petition. If it is determined that
 616 the authority has failed to comply with the requirements for the preparation and filing of
 617 the audit or annual registration, the judge shall pass such orders as are necessary to
 618 effectuate compliance with such requirements. In the event the authority fails to have an
 619 audit prepared and filed or fails to register as required by court order, the members of the
 620 authority shall be subject to contempt proceedings by the court as provided by law; and
 621 (2) The department may withhold all or any portion of any state grants or funds that the
 622 hospital authority is eligible to receive pursuant to Code Section 31-7-94 or 31-7-94.1,
 623 disproportionate share hospitals funds, or any other applicable state or federal grants or
 624 funds. In the event that the department withholds any such grants or funds, the
 625 department shall provide notice of such action to the governing body of each participating
 626 unit of the authority and to the members of the legislative delegation of the General
 627 Assembly who represent such participating units."

628 **SECTION 24.**

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