

The Senate Committee on Finance offered the following substitute to HB 321:

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 provide for the posting of certain documents on hospital websites; to provide for
3 requirements; to provide for a definition; to provide for conflicting interest transactions for
4 members of hospital authorities; to extend the sunset provision for the hospital Medicaid
5 financing program; to amend Code Section 48-7-29.20 of the Official Code of Georgia
6 Annotated, relating to tax credits for contributions to rural health organizations, so as to
7 provide for undesignated contributions, reporting, and an annual credit; to extend the sunset
8 provision for the tax credit; to provide for an effective date; to repeal conflicting laws; and
9 for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 SECTION 1.

12 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by adding
13 a new Code section to Article 1 of Chapter 7, relating to regulation of hospitals and related
14 institutions, to read as follows:

15 "31-7-22.

16 (a) As used in this Code section, the term 'hospital' means a nonprofit hospital, a hospital
17 owned or operated by a hospital authority, or a nonprofit corporation formed, created, or
18 operated by or on behalf of a hospital authority.

19 (b) Beginning July 1, 2019, each hospital in this state shall post a link in a prominent
20 location on the main page of its website to the most recent version of the following
21 documents:

22 (1) Federal related disclosures:

23 (A) Copies of audited financial statements that are general purpose financial
24 statements, which express the unqualified opinion of an independent certified public
25 accounting firm for the most recently completed fiscal year for the hospital; each of its

26 affiliates, except those affiliates that were inactive or that had an immaterial amount of
27 total assets; and the hospital's parent corporation that include the following:

28 (i) A PDF version of all audited financial statements;

29 (ii) A note in the hospital's audited financial statements that identifies individual
30 amounts for such hospital's gross patient revenue, allowances, charity care, and net
31 patient revenue;

32 (iii) Audited consolidated financial statements for hospitals with subsidiaries and
33 consolidating financial statements that at a minimum contain a balance sheet and
34 statement of operations and that provide a breakout of the hospital's and each
35 subsidiary's numbers with a report from independent accountants on other financial
36 information; and

37 (iv) Audited consolidated financial statements for the hospital's parent corporation
38 and consolidating financial statements that at a minimum contain a balance sheet and
39 statement of operations and that provide a breakout of the hospital's and each
40 affiliate's numbers with a report from independent accountants on other financial
41 information; and

42 (B) Copy of audited Internal Revenue Service Form 990, including Schedule H for
43 hospitals and other applicable attachments; provided, however, that for any hospital not
44 required to file IRS Form 990, the department shall establish and provide a form that
45 collects the same information as is contained in Internal Revenue Service Form 990,
46 including Schedule H for hospitals, as applicable; and

47 (2) Georgia supplemental disclosures:

48 (A) Copy of the hospital's completed annual hospital questionnaire, as required by the
49 department;

50 (B) The community benefit report prepared pursuant to Code Section 31-7-90.1, if
51 applicable;

52 (C) The disproportionate share hospital survey, if applicable;

53 (D) Listing of all property holdings of the hospital, including the location and size,
54 parcel ID number, purchase price, current use, and any improvements made to such
55 property;

56 (E) Listing of any ownership or interest the nonprofit hospital has in any joint venture,
57 business venture foundation, operating contract, partnership, subsidiary holding
58 company, or captive insurance company; where any such entity is domiciled; and the
59 value of any such ownership or interest;

60 (F) Listing of any bonded indebtedness, outstanding loans, and bond defaults, whether
61 or not in forbearance; and any bond disclosure sites of the hospital;

62 (G) A report that identifies by purpose, the ending fund balances of the net assets of
 63 the hospital and each affiliate as of the close of the most recently completed fiscal year,
 64 distinguishing between donor permanently restricted, donor temporarily restricted,
 65 board restricted and unrestricted fund balances. The hospital's interest in its foundation
 66 shall be deducted from the foundation's total fund balance;

67 (H) Copy of all going concern statements regarding the hospital;

68 (I) The most recent legal chart of corporate structure, including the hospital, each of
 69 its affiliates and subsidiaries, and its parent corporation, duly dated;

70 (J) Report listing the salaries and fringe benefits for the ten highest paid administrative
 71 positions in the hospital. Each position shall be identified by its complete,
 72 unabbreviated title. Fringe benefits shall include all forms of compensation, whether
 73 actual or deferred, made to or on behalf of the employee, whether full or part-time;

74 (K) Evidence of accreditation by accrediting bodies, including, but not limited to, the
 75 Joint Commission and DNV; and

76 (L) Copy of the hospital's policies regarding the provision of charity care and reduced
 77 cost services to the indigent, excluding medical assistance recipients, and its debt
 78 collection practices.

79 (c) Each hospital shall update the documents in the links posted pursuant to subsection (b)
 80 of this Code section on July 1 of each year or more frequently at its discretion. Noncurrent
 81 documents shall remain posted and accessible on the hospital's website indefinitely.

82 (d) All documents listed in subsection (b) of this Code section shall be prepared in
 83 accordance with generally accepted accounting principles, as applicable.

84 (e) The department shall also post a link in a prominent location on its website to the
 85 documents listed in subsection (b) of this Code section for each hospital in this state.

86 (f) Any hospital that fails to post the documents required pursuant to subsection (b) of this
 87 Code section within 30 days of the dates required in this Code section shall be suspended
 88 from receiving any state funds or any donations pursuant to Code Section 48-7-29.20.

89 (g) The department shall have jurisdiction to enforce this Code section and to promulgate
 90 rules and regulations required to administer this Code section.

91 (h) Any person who knowingly and willfully includes false, fictitious, or fraudulent
 92 information in any documents required to be posted pursuant to this Code section shall be
 93 subject to a violation of Code Section 16-10-20."

94 **SECTION 2.**

95 Said title is further amended by adding a new Code section to Article 4 of Chapter 7, relating
 96 to hospital authorities, to read as follows:

97 "31-7-74.4.
 98 Members on the board of a hospital authority at the time of a sale or lease of a hospital
 99 owned by such hospital authority shall be deemed directors and subject to the provisions
 100 of Part 6 of Article 8 of Chapter 3 of Title 14, relating to conflicting interest transactions
 101 with respect to the proceeds of such sale or lease."

102 **SECTION 3.**

103 Said title is further amended by revising Code Section 31-8-9.1, relating to eligibility to
 104 receive tax credits and obligations of rural hospitals after receipt of funds, as follows:

105 "31-8-9.1.

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

107 (1) 'Critical access hospital' means a hospital that meets the requirements of the federal
 108 Centers for Medicare and Medicaid Services to be designated as a critical access hospital
 109 and that is recognized by the department as a critical access hospital for purposes of
 110 Medicaid.

111 (2) 'Rural county' means a county having a population of less than 50,000 according to
 112 the United States decennial census of 2010 or any future such census; provided, however,
 113 that for counties which contain a military base or installation, the military personnel and
 114 their dependents living in such county shall be excluded from the total population of such
 115 county for purposes of this definition.

116 (3) 'Rural hospital organization' means an acute care hospital licensed by the department
 117 pursuant to Article 1 of Chapter 7 of this title that:

118 (A) Provides inpatient hospital services at a facility located in a rural county or is a
 119 critical access hospital;

120 (B) Participates in both Medicaid and medicare and accepts both Medicaid and
 121 medicare patients;

122 (C) Provides health care services to indigent patients;

123 (D) Has at least 10 percent of its annual net revenue categorized as indigent care,
 124 charity care, or bad debt;

125 (E) Annually files IRS Form 990, Return of Organization Exempt From Income Tax,
 126 with the department, or for any hospital not required to file IRS Form 990, the
 127 department will provide a form that collects the same information to be submitted to the
 128 department on an annual basis;

129 (F) Is operated by a county or municipal authority pursuant to Article 4 of Chapter 7
 130 of this title or is designated as a tax-exempt organization under Section 501(c)(3) of the
 131 Internal Revenue Code; ~~and~~

132 (G) Is current with all audits and reports required by law; and

133 (H) Does not have a margin above expenses of greater than 15 percent, as calculated
134 by the department.

135 (b)(1) By December 1 of each year, the department shall approve a list of rural hospital
136 organizations eligible to receive contributions from the tax credit provided pursuant to
137 Code Section 48-7-29.20 and transmit such list to the Department of Revenue.

138 (2) Before any rural hospital organization is included on the list as eligible to receive
139 contributions from the tax credit provided pursuant to Code Section 48-7-29.20, it shall
140 submit to the department a five-year plan detailing the financial viability and stability of
141 the rural hospital organization. The criteria to be included in the five-year plan shall be
142 established by the department.

143 (3) The department shall create an operations manual for identifying rural hospital
144 organizations and ranking such rural hospital organizations in order of financial need.
145 Such manual shall include:

146 (A) All deadlines for submitting required information to the department;

147 (B) The criteria to be included in the five-year plan submitted pursuant to paragraph (2)
148 of this subsection; and

149 (C) The formula applied to rank the rural hospital organizations in order of financial
150 need.

151 (c)(1) A rural hospital organization that receives donations pursuant to Code Section
152 48-7-29.20 shall:

153 (A) Utilize such donations for the provision of health care related services for residents
154 of a rural county or for residents of the area served by a critical access hospital; and

155 (B) Report on a form provided by the department:

156 (i) All contributions received from individual and corporate donors pursuant to Code
157 Section 48-7-29.20 detailing the manner in which the contributions received were
158 expended by the rural hospital organization; and

159 (ii) Any payments made to a third party to solicit, administer, or manage the
160 donations received by the rural hospital organization pursuant to this Code section or
161 Code Section 48-7-29.20. In no event shall payments made to a third party to solicit,
162 administer, or manage the donations received pursuant to this Code section exceed 3
163 percent of the total amount of the donations.

164 (2) The department shall annually prepare a report compiling the information received
165 pursuant to paragraph (1) of this subsection for the chairpersons of the House Committee
166 on Ways and Means and the Senate Health and Human Services Committee.

167 (d) The department shall post the following information in a prominent location on its
168 website:

- 169 (1) The list of rural hospital organizations eligible to receive contributions established
 170 pursuant to paragraph (1) of subsection (b) of this Code section;
 171 (2) The operations manual created pursuant to paragraph (3) of subsection (b) of this
 172 Code section;
 173 (3) The annual report prepared pursuant to paragraph (2) of subsection (c) of this Code
 174 section;
 175 (4) The total amount received by each third party that participated in soliciting,
 176 administering, or managing donations; and
 177 (5) A link to the Department of Revenue's website containing the information included
 178 in subsection (d) of Code Section 48-7-29.20."

179 **SECTION 4.**

180 Said title is further amended by revising Code Section 31-8-179.6, relating to the termination
 181 date of the hospital Medicaid financing program, as follows:

182 "31-8-179.6.

183 This article shall stand repealed on June 30, ~~2020~~ 2025, unless reauthorized by the General
 184 Assembly prior to that date."

185 **SECTION 5.**

186 Code Section 48-7-29.20 of the Official Code of Georgia Annotated, relating to tax credits
 187 for contributions to rural hospital organizations, is amended as follows:

188 "48-7-29.20.

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

190 (1) 'Qualified rural hospital organization expense' means the contribution of funds by an
 191 individual or corporate taxpayer to a rural hospital organization for the direct benefit of
 192 such organization during the tax year for which a credit under this Code section is
 193 claimed.

194 (2) 'Rural hospital organization' means an organization that is approved by the
 195 Department of Community Health pursuant to Code Section 31-8-9.1.

196 (b) An individual taxpayer shall be allowed a credit against the tax imposed by this chapter
 197 for qualified rural hospital organization expenses as follows:

198 (1) In the case of a single individual or a head of household, the actual amount expended;

199 (2) In the case of a married couple filing a joint return, the actual amount expended; or

200 (3) In the case of an individual who is a member of a limited liability company duly
 201 formed under state law, a shareholder of a Subchapter 'S' corporation, or a partner in a
 202 partnership, the amount expended; provided, however, that tax credits pursuant to this

203 paragraph shall be allowed only for the portion of the income on which such tax was
204 actually paid by such individual.

205 (b.1) From January 1 to June 30 each taxable year, an individual taxpayer shall be limited
206 in its qualified rural hospital organization expenses allowable for credit under this Code
207 section, and the commissioner shall not approve qualified rural hospital organization
208 expenses incurred from January 1 to June 30 each taxable year, which exceed the following
209 limits:

210 (1) In the case of a single individual or a head of household, \$5,000.00;

211 (2) In the case of a married couple filing a joint return, \$10,000.00; or

212 (3) In the case of an individual who is a member of a limited liability company duly
213 formed under state law, a shareholder of a Subchapter 'S' corporation, or a partner in a
214 partnership, \$10,000.00.

215 (c) A corporation or other entity shall be allowed a credit against the tax imposed by this
216 chapter for qualified rural hospital organization expenses in an amount not to exceed the
217 actual amount expended or 75 percent of the corporation's income tax liability, whichever
218 is less.

219 (d) In no event shall the total amount of the tax credit under this Code section for a taxable
220 year exceed the taxpayer's income tax liability. Any unused tax credit shall be allowed the
221 taxpayer against the succeeding five years' tax liability. No such credit shall be allowed
222 the taxpayer against prior years' tax liability.

223 (e)(1) In no event shall the aggregate amount of tax credits allowed under this Code
224 section exceed \$60 million per taxable year.

225 (2)(A) No more than \$4 million of the aggregate limit established by paragraph (1) of
226 this subsection shall be contributed to any individual rural hospital organization in any
227 taxable year. From January 1 to June 30 each taxable year, the commissioner shall only
228 preapprove contributions submitted by individual taxpayers in an amount not to exceed
229 \$2 million, and from corporate donors in an amount not to exceed \$2 million. From
230 July 1 to December 31 each taxable year, subject to the aggregate limit in paragraph (1)
231 of this subsection and the individual rural hospital organization limit in this paragraph,
232 the commissioner shall approve contributions submitted by individual taxpayers and
233 corporations or other entities.

234 (B) In the event an individual or corporate donor desires to make a contribution to an
235 individual rural hospital organization that has received the maximum amount of
236 contributions for that taxable year, the Department of Community Health shall provide
237 the individual or corporate donor with a list, ranked in order of financial need, as
238 determined by the Department of Community Health, of rural hospital organizations
239 still eligible to receive contributions for the taxable year.

240 (C) In the event that an individual or corporate donor desires to make a contribution
241 to an unspecified or undesignated rural hospital organization, either directly to the
242 department or through a third party that participates in soliciting, administering, or
243 managing donations, such donation shall be attributed to the rural hospital organization
244 ranked with the highest financial need that has not yet received the maximum amount
245 of contributions for that taxable year, regardless of whether a third party has a
246 contractual relationship or agreement with such rural hospital organization.

247 (D) Any third party that participates in soliciting, advertising, or managing donations
248 shall provide the complete list of rural hospital organizations eligible to receive the tax
249 credit provided pursuant to this Code section including their ranking in order of
250 financial need as determined by the Department of Community Health pursuant to Code
251 Section 31-8-9.1, to any potential donor regardless of whether a third party has a
252 contractual relationship or agreement with such rural hospital organization.

253 (3) For purposes of paragraphs (1) and (2) of this subsection, a rural hospital
254 organization shall notify a potential donor of the requirements of this Code section.
255 Before making a contribution to a rural hospital organization, the taxpayer shall
256 electronically notify the department, in a manner specified by the department, of the total
257 amount of contribution that the taxpayer intends to make to the rural hospital
258 organization. The commissioner shall preapprove or deny the requested amount within
259 30 days after receiving the request from the taxpayer and shall provide written notice to
260 the taxpayer and rural hospital organization of such preapproval or denial which shall not
261 require any signed release or notarized approval by the taxpayer. In order to receive a tax
262 credit under this Code section, the taxpayer shall make the contribution to the rural
263 hospital organization within 60 days after receiving notice from the department that the
264 requested amount was preapproved. If the taxpayer does not comply with this paragraph,
265 the commissioner shall not include this preapproved contribution amount when
266 calculating the limits prescribed in paragraphs (1) and (2) of this subsection.

267 (4)(A) Preapproval of contributions by the commissioner shall be based solely on the
268 availability of tax credits subject to the aggregate total limit established under
269 paragraph (1) of this subsection and the individual rural hospital organization limit
270 established under paragraph (2) of this subsection.

271 (B) Any taxpayer preapproved by the department pursuant to subsection (e) of this
272 Code section shall retain their approval in the event the credit percentage in subsection
273 (b) of this Code section is modified for the year in which the taxpayer was preapproved.

274 (C) Upon the rural hospital organization's confirmation of receipt of donations that
275 have been preapproved by the department, any taxpayer preapproved by the department
276 pursuant to subsection (c) of this Code section shall receive the full benefit of the

277 income tax credit established by this Code section even though the rural hospital
278 organization to which the taxpayer made a donation does not properly comply with the
279 reports or filings required by this Code section.

280 (5) Notwithstanding any laws to the contrary, the department shall not take any adverse
281 action against donors to rural hospital organizations if the commissioner preapproved a
282 donation for a tax credit prior to the date the rural hospital organization is removed from
283 the Department of Community Health list pursuant to Code Section 31-8-9.1, and all such
284 donations shall remain as preapproved tax credits subject only to the donor's compliance
285 with paragraph (3) of this subsection.

286 (f) In order for the taxpayer to claim the tax credit under this Code section, a letter of
287 confirmation of donation issued by the rural hospital organization to which the contribution
288 was made shall be attached to the taxpayer's tax return. However, in the event the taxpayer
289 files an electronic return, such confirmation shall only be required to be electronically
290 attached to the return if the Internal Revenue Service allows such attachments when the
291 return is transmitted to the department. In the event the taxpayer files an electronic return
292 and such confirmation is not attached because the Internal Revenue Service does not, at the
293 time of such electronic filing, allow electronic attachments to the Georgia return, such
294 confirmation shall be maintained by the taxpayer and made available upon request by the
295 commissioner. The letter of confirmation of donation shall contain the taxpayer's name,
296 address, tax identification number, the amount of the contribution, the date of the
297 contribution, and the amount of the credit.

298 (g) No credit shall be allowed under this Code section with respect to any amount
299 deducted from taxable net income by the taxpayer as a charitable contribution to a bona
300 fide charitable organization qualified under Section 501(c)(3) of the Internal Revenue
301 Code.

302 (h) The commissioner shall be authorized to promulgate any rules and regulations
303 necessary to implement and administer the provisions of this Code section.

304 (i) The department shall post the following information in a prominent location on its
305 website:

306 (1) All pertinent timelines relating to the tax credit, including, but not limited to:

307 (A) Beginning date when contributions can be submitted for preapproval by donors for
308 the January 1 to June 30 period;

309 (B) Ending date when contributions can be submitted for preapproval by donors for the
310 January 1 to June 30 period;

311 (C) Beginning date when contributions can be submitted for preapproval by donors for
312 the July 1 to December 31 period;

- 313 (D) Ending date when contributions can be submitted for preapproval by donors for the
 314 July 1 to December 31 period; and
- 315 (E) Date by which preapproved contributions are required to be sent to the rural
 316 hospital organization;
- 317 (2) The list and ranking order of rural hospital organizations eligible to receive
 318 contributions established pursuant to paragraph (1) of subsection (b) of Code Section
 319 31-8-9.1;
- 320 (3) A monthly progress report including:
- 321 (A) Total preapproved contributions to date by rural hospital organization;
 322 (B) Total contributions received to date by rural hospital organization;
 323 (C) Total aggregate amount of preapproved contributions made to date; and
 324 (D) Aggregate amount of tax credits available;
- 325 (4) A list of all preapproved contributions that were made to an unspecified or
 326 undesignated rural hospital organization and the rural hospital organizations that received
 327 such contributions.
- 328 (j) The Department of Audits and Accounts shall annually conduct an audit of the tax
 329 credit program established under this Code section, including the amount and recipient
 330 rural hospital organization of all contributions made, all tax credits received by individual
 331 and corporate donors, and all amounts received by third parties that solicited, administered,
 332 or managed donations pertaining to this Code section and Code Section 31-8-9.1.
- 333 (i)(k) This Code section shall stand automatically repealed on December 31, 2021 2024."

334 **SECTION 6.**

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

337 **SECTION 7.**

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