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2008 Legislature

1 A bill to be entitled
2 An act relating to the DeSoto County Hospital District;
3 amending chapter 2004-450, Laws of Florida; providing the
4 nature of the district; providing for sovereign immunity;
5 providing additional powers of the district; revising
6 provisions relating to the destruction of records;
7 providing for treatment of prisoners or county officers
8 admitted to any hospital operated or leased by the
9 district; providing for personnel; providing contract
10 requirements for lease of facilities to not-for-profit
11 corporations; providing for self-insurance plans; deleting
12 certain requirements for insurance policy contracts;
13 providing for liens for collection of charges; providing
14 applicability; providing an effective date.

15
16 Be It Enacted by the Legislature of the State of Florida:

17
18 Section 1. Present sections 17 and 18 of section 3 of
19 chapter 2004-450, Laws of Florida, are renumbered as sections 18
20 and 19, respectively, present sections 1, 3, 4, 14, 15, and 16
21 of that section are amended, and new sections 16 and 20 are
22 added to that section, to read:

23 Section 1. Creation; boundaries; nature of district.--

24 (1) An independent special district is created and
25 incorporated to be known as the "DeSoto County Hospital
26 District," which district shall embrace and include all of
27 DeSoto County.

28 (2) The district is an independent special district of the

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29 state and DeSoto County pursuant to this act and chapter 189,
 30 Florida Statutes, and a public body both corporate and politic.
 31 The district shall not be an agency for the purposes of the
 32 Administrative Procedure Act, chapter 120, Florida Statutes. The
 33 district shall enjoy all the protections of sovereign immunity
 34 and section 768.28, Florida Statutes.

35 Section 3. Powers.--

36 (1) The District Board of DeSoto County Hospital District
 37 shall have all the powers of a body corporate, including the
 38 power to sue and be sued under the name of the DeSoto County
 39 Hospital District; to contract and be contracted with; to adopt
 40 and use a common seal and to alter same at pleasure; to acquire,
 41 purchase, hold, lease, mortgage, and convey such real and
 42 personal property as the board may deem proper or expedient to
 43 carry out the purposes of this act; to appoint and employ a
 44 superintendent and such other agents and employees as the board
 45 may deem advisable and to fix a compensation of all employees
 46 and to remove any appointees or employees; to insure the
 47 improvements, fixtures, and equipment against loss by fire,
 48 windstorm, or other coverage in such amounts as may be
 49 determined reasonable and proper; and to borrow money and issue
 50 evidence of indebtedness of the district therefor to carry out
 51 the provisions of this act in the manner hereinafter provided.

52 (2) The DeSoto County Hospital District is authorized and
 53 empowered to finance by any commercially reasonable means,
 54 including the issuance of industrial development or revenue
 55 bonds, the construction of additional medical facilities, the

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56 purchase of medical-care-related equipment, and such other
57 classes of property in furtherance of the district's purposes.

58 (3) The district serves a proper public purpose; performs
59 an essential governmental function of the state and county;
60 shall have all power and authority necessary to carry out the
61 purposes of this act, including, without limitation, all powers
62 authorized by law to hospital districts, facilities, and
63 authorities; and shall have and operate under the powers of a
64 body corporate and politic, including such general and special
65 powers and duties as are provided herein and as may be otherwise
66 provided and amended from time to time by the Legislature.

67 Section 4. Officers; meetings; records.--There shall be a
68 chair of the district board elected annually. The district board
69 may elect one of its members to serve as secretary and treasurer
70 or it may appoint some person not a member of the district board
71 to serve in that capacity. In the absence of the chair or his or
72 her inability to act at any regular meeting, warrants may be
73 signed by any other member of the district board selected by the
74 members present as chair pro tem. Three members shall constitute
75 a quorum, and a vote of at least two members shall be necessary
76 to the transaction of any business of the district. A regular
77 meeting of the board shall be held annually. Additional meetings
78 may be called by a majority of the board upon advance notice as
79 provided by section 189.417, Florida Statutes. The members shall
80 cause true and accurate minutes and records to be kept of all
81 business transacted by them and shall keep full, true, and
82 complete books of account and minutes, which minutes, records,
83 and books of account shall at all reasonable times be open and

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84 subject to inspection; and any person desiring to do so may make
85 or procure copies of the minutes, records, or books of account,
86 or such portions thereof as he or she may desire; however, such
87 records shall not include personnel and medical records of a
88 private and confidential nature. The district board shall be
89 empowered to destroy any of its records, together with any of
90 the records of the hospitals owned and operated by the district
91 board, if the records are photographed, ~~or~~ microfilmed, or
92 otherwise maintained in a reproducible format prior to their
93 destruction.

94 Section 14. Admission to facilities.--The hospital or
95 related medical facilities established under this act shall be
96 for the use and benefit of the residents of this district,
97 subject to the rules, regulations, and charges prescribed by the
98 district board which are in effect as of the date of admission
99 of a patient or patients to such a hospital or related medical
100 facility. Medical care and treatment for the indigent in the
101 district shall be and remain the primary responsibility of
102 DeSoto County, any authorization herein contained for treatment
103 of indigents to the contrary notwithstanding, the district board
104 of this district being granted the authority to refuse such
105 admission of indigents when found by such district board not to
106 be financially practicable with due regard to the general
107 financial condition of the district. The district board is
108 empowered to enter into and fulfill agreements with the Board of
109 County Commissioners of DeSoto County for the admission and
110 treatment of indigents upon such terms, costs, and charges as
111 may be mutually agreed upon. The district board shall be

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112 authorized to accept moneys from any welfare funds provided for
 113 DeSoto County or moneys available to the indigent patients from
 114 a federal, state, or county agency or moneys available to DeSoto
 115 County from said governmental agencies for welfare and hospital
 116 purposes, for the payment of costs of treatment and care of
 117 indigent residents of the district as shall be admitted. The
 118 district board may collect from patients financially able such
 119 charges as the district board may from time to time establish.
 120 The district board may extend the privileges and use of the
 121 hospital or clinic to nonresidents of the district who shall pay
 122 the rates established by the district board upon such terms and
 123 conditions as the district board may provide. However, residents
 124 of the district wherein the hospital or clinic is located shall
 125 have first claim to admission. The district board shall further
 126 have the power to furnish and extend the benefits of the
 127 hospital and clinic services and treatment to the homes of
 128 indigent residents of the district. Each municipal corporation
 129 situated within the district and the law enforcement agencies of
 130 DeSoto County shall be liable to the district board for the
 131 occupancy, care, medicine, and treatment of prisoners in the
 132 custody of the municipal corporation or for county officers who
 133 are admitted to any hospital operated or leased by the district
 134 board.

135 Section 15. Regulation of physicians, staff members, and
 136 practitioners.--Realizing that factors other than academic
 137 records ~~professional~~ must enter into the qualifications of those
 138 who practice medicine and surgery, the district board is
 139 authorized to set up rules, regulations, and bylaws for the

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140 operation of the hospital and hospital staff. The district board
 141 is authorized to grant or revoke licenses and privileges of
 142 staff members for practice in and about any hospital or other
 143 medical care facility maintained under this act, so that the
 144 welfare and health of patients and the best interests of the
 145 facility may at all times be best served. Privileges of staff
 146 membership and appointments thereto may be authorized or granted
 147 by the district board. The district board is further authorized
 148 to set up rules and regulations for the control of all
 149 professional and nonprofessional employees of any hospital or
 150 other medical care facility, which terms shall include nurses on
 151 general duty or on private duty attending patients, and all
 152 parties in the facility as employees in any manner in attendance
 153 of patients. The district is further authorized to recruit,
 154 retain, discharge, and compensate personnel, including
 155 physicians, to provide health-related services at facilities
 156 operated or leased by the district. The district is also
 157 authorized to employ or enter into independent contractor
 158 arrangements, at the discretion of the board, with professionals
 159 and others and fix their compensation.

160 Section 16. Lease of facilities to not-for-profit
 161 corporation.--

162 (1) The district board is permitted to acquire any health-
 163 related properties, including the DeSoto Memorial Hospital, and
 164 contract with a not-for-profit corporation formed by the
 165 district or the board for the operation, management, and
 166 maintenance of the district's facilities of whatsoever kind and
 167 nature through one or more agreements, with the term thereof and

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168 conditions and covenants contained therein made at the
169 discretion of the board, except that the contract must provide:

170 (a) That the corporation's articles of incorporation and
171 bylaws are subject to the approval of the board.

172 (b) That the corporation shall become qualified under
173 section 501(c)(3) of the Internal Revenue Code of 1986, as
174 amended, or any other subsection of section 501(c) as approved
175 by the board, prior to the effective date of the contract.

176 (c) For the prompt return of the operation of the district
177 facilities from the corporation to the district in the event of
178 termination of the agreement or dissolution of the corporation.

179 (d) That the district is not responsible for the debts or
180 other obligations of the corporation.

181 (2) An agreement with a not-for-profit corporation may
182 provide, but need not be limited to providing, that the members
183 of the board may be members of the board of directors of the
184 corporation.

185 Section ~~17.16~~. ~~Insurance; board liability.~~--The district
186 board may secure and keep in force in amounts it may determine,
187 in companies duly authorized to do business in Florida,
188 liability insurance covering vehicles, premises, and
189 malpractice. In combination with such insurance or in the
190 alternative, the district board may create a self-insurance plan
191 that provides the same or similar coverages. ~~In consideration of~~
192 ~~the premium at which each policy shall be written, it shall be a~~
193 ~~part of the policy contract between the district board and the~~
194 ~~insurer that the company shall not be entitled to the benefit of~~
195 ~~the defense of governmental immunity for the insured by reason~~

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196 ~~of exercising a governmental function on any suit brought~~
197 ~~against the insured.~~

198 Section 20. Liens for collection of charges.--

199 (1) The district, as well as any not-for-profit
200 corporation contracting with the district for the operation,
201 management, and maintenance of the district's facilities, shall
202 be entitled to a lien for all charges incurred for hospital
203 care, treatment, and maintenance of ill or injured persons upon
204 any and all causes of action, suits, claims, counterclaims, and
205 demands accruing to such persons or the legal representatives of
206 such persons, and upon all judgments, settlements, and
207 settlement agreements rendered or entered into by virtue
208 thereof, on account of illness or injuries giving rise to such
209 causes of action, suits, claims, counterclaims, demands,
210 judgments, settlements, or settlement agreements and that
211 necessitate or shall have necessitated such hospital care,
212 treatment, and maintenance.

213 (2) In order to perfect such a lien, the executive office
214 or agent of the hospital, before any person shall have been
215 discharged from said hospital or within 45 days after such
216 discharge, shall file in the office of the Clerk of the Circuit
217 Court of DeSoto County a verified claim in writing setting forth
218 the name and address of the patient as it appears on the records
219 of the hospital; the name and location of the hospital; the name
220 and address of the executive office or agent of the hospital;
221 the dates of the patient's admission to and discharge from the
222 hospital; the amount claimed to be due for such hospital care,
223 treatment, and maintenance; and, to the best knowledge of the

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224 person signing the claim, the names and addresses of all
225 persons, firms, or corporations that may be claimed by the ill
226 or injured person, or by the legal representative of such
227 person, to be liable for such illness or injuries. At the same
228 time that the claim is filed with the clerk of the circuit
229 court, a copy thereof shall be sent by regular mail to the ill
230 or injured person, to his or her attorney, if known, and to all
231 persons, firms, or corporations named in the claim. The filing
232 and mailing of the claim in accordance with this section shall
233 be notice thereof to all persons, firms, or corporations that
234 may be liable for such illness or injuries regardless of whether
235 they are named in the claim or lien and regardless of whether
236 they have received a copy of the claim.

237 (3) The Clerk of the Circuit Court of DeSoto County shall
238 endorse on the claim the date and hour of filing and shall
239 record the claim in the official records of DeSoto County. The
240 clerk shall be paid by the claimant, as the clerk's fee for the
241 filing and recording of each claim, the same fee as provided for
242 filing and recording other instruments under the recording laws.

243 (4) No release or satisfaction of any cause of action,
244 suit, claim, counterclaim, demand, judgment, settlement, or
245 settlement agreement shall be valid or effectual as against such
246 lien unless the lienholder joins therein or executes a release
247 of the lien. Any acceptance of a release or satisfaction of any
248 such cause of action, suit, claim, counterclaim, demand, or
249 judgment and any settlement of any of the foregoing in the
250 absence of a release of satisfaction of the lien shall prima
251 facie constitute an impairment of the lien, and the lienholder

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252 shall be entitled to an action at law for damages on account of
253 such impairment and in such action shall recover from the one
254 accepting such release or satisfaction or making such settlement
255 the outstanding charges for such hospital care, treatment, and
256 maintenance. Satisfaction of any judgment rendered in favor of
257 the lienholder in any such action shall operate as a
258 satisfaction of the lien. Any action by the lienholder may be
259 brought and maintained in any court of competent jurisdiction in
260 or for DeSoto County. If the lienholder prevails in such action,
261 the lienholder shall be entitled to recover from the defendant,
262 in addition to costs otherwise allowed by law, reasonable
263 attorney's fees, suit money, costs, and expenses incident to the
264 matter.

265 (5) The provisions of this act shall not be applicable to
266 accidents or injuries within the purview of the workers'
267 compensation laws of this state.

268 Section 2. This act shall take effect upon becoming a law.